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THE SINO-JAPANESE CONFLICT
AND INTERESTS IN CHINA.

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Memorandum on
THE EFFECTS OF THE SINO-JAPANESE CONFLICT
ON AMERICAN RIGHTS AND INTERESTS IN CHINA

by

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A data paper submitted by the American Council to the Study Meeting of the Institute of Pacific Relations at Virginia Beach, Va., November-December, 1939.

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FOREWORD

The following report, prepared at the request of the American Council, Institute of Pacific Relations, is a digest of a more inclusive study now in process of preparation. The material upon which it is based was obtained through research and personal interviews in China in 1939 and by an examination of available reports and statistics in the United States.

Since hostilities in the Far East are still in progress and many official reports are incomplete, the conclusions stated in this memorandum must be considered tentative and subject to revision. It is presented to the 1939 Study Meeting of the Institute of Pacific Relations as documentation for discussions of this subject. In so far as it presents interpretations and opinions as well as statements of fact, they should not be regarded as reflecting the views of either the Institute of Pacific Relations or its American Council, but solely those of the author.

New York City
October 20, 1939.

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CONTENTS

Page

FOREWORD

PART ONE: AMERICAN RIGHTS AND INTERESTS IN CHINA	1
I. American Rights in China	1
A. Extraterritoriality	1
B. Right of Residence and Trade in the Open Ports and of Travel in the Interior of China	1
C. Right to Protect Citizens and Property in China	2
D. Rights as Corollaries to the Obligations of the Nine-Power Treaty	3
E. Rights in Special Areas in China	4
II. American Interests in China	5
A. Economic	5
B. Missionary, Educational and Philanthropic Interests.	6
PART TWO: THE EFFECT OF THE SINO-JAPANESE CONFLICT ON AMERICAN RIGHTS AND INTERESTS	8
III. Extraterritoriality	9
IV. Residence and Travel	11
V. Protection of American Citizens and Property	13
VI. Rights in Special Areas in China	14
A. International Settlement at Shanghai	14
B. The International Settlement of Kulangsu (Amoy)	17
C. The Legation Quarter in Peking	18
D. Foreign Concessions	18
VII. Rights under the Nine-Power Treaty	19
A. Taxation	19
B. Tariffs	20
C. Chinese Maritime Customs Administration	20
D. Foreign Loans and Customs Revenue.....	22
E. Currency and Exchange Control	23
F. Import and Export Control	24
G. Establishment of Monopolistic and Other Enterprises.	25
H. Shipping and Inland Navigation	28
I. Whangpoo Conservancy Board	29
VIII. Effect of the Conflict on American Trade	29
IX. Effect of the Conflict on American Investments	33
X. Effect of the Conflict on American Shipping	35

	<u>Page</u>
XI. Effect of the Conflict on American Philanthropic Activity (Excluding Education)	36
XII. Effect of the Conflict on American Educational Activity.	38
XIII. Attitudes of Americans in China Respecting the Conflict.	39
 PART THREE: FAR EASTERN POLICY AND AMERICAN RIGHTS AND INTERESTS IN CHINA	 42
 APPENDICES:	
A. Exports to the United States and Japan from Principal Ports of China under Japanese Occupation	45
B. Imports into Principal Ports of China under Japanese Occupation from the United States and Japan	46
C. United States Trade with Ports of China not under Japanese Occupation or only under Occupation for only a part of 1938	47
D. Statement Respecting the University of Shanghai, Contained in the United States Note to Japan Presented by Ambassador Grew in Tokyo on May 31, 1938	48
E. Principal American-Supported Colleges and Universities in China which have been Forced to Move to the Interior or to Foreign Settlements to carry on their work	49
F. Organizations of Americans in China	50
G. Parallel Action by Eleven National Groups of Foreigners in Shanghai	53

PART ONE: AMERICAN RIGHTS AND INTERESTS IN CHINA

I. AMERICAN RIGHTS IN CHINA

In the United States Government's note to Japan of December 31, 1938, there occurs the following statement,

"The United States has in its international relations rights and obligations which derive from international law and rights and obligations which rest upon treaty provisions. Of those which rest upon treaty provisions, its rights and obligations in and with regard to China rest in part upon provisions in treaties between the United States and China and in part upon provisions in treaties between the United States and several other powers, including both China and Japan." ^{1/}

Specifically these rights include (a) the right of extraterritoriality, (b) the right of residence and trade in the open ports of China and of travel in the interior, (c) the right to protect citizens and their property, (d) rights in special areas in China, and (e) rights as corollaries to the obligations of the Nine Power Treaty.

A. Extraterritoriality.

According to provisions of treaties between the United States and China signed in 1844, 1858, and 1903, American citizens in China are subject only to the laws of the United States and to such local regulations as may be agreed to by American authorities. They are subject only to the jurisdiction of American consular courts and of the United States Court for China. They are, in general, immune from the application of Chinese laws and regulations, and their property is not subject to seizure except by due process under the laws of the United States. Their premises are not subject to entry or search except by the proper authorities of the United States government in possession of legal writs or warrants. In short, the right of extraterritoriality provides for Americans immunity of their persons from arrest and imprisonment, immunity from taxation, immunity of their property from search and seizure except by means provided for under the laws of the United States as enforced by the officers of the United States government or by non-American authorities under specific approval of the officers of the United States government.

B. Right of Residence and Trade in the Open Ports and of Travel in the Interior of China.

By the same treaties noted above, American citizens were granted the right to reside and carry on business, philanthropic, educational and religious activity in the open ports of China. Non-commercial activity, principally religious work can be carried on in the interior. Citizens engaged in missionary and philanthropic and educational work have been granted considerable freedom of travel in the interior under a visa given by the Chinese government for this purpose. Travel for other purposes in the interior of China has been allowed, according to conditions of safety and

^{1/} Department of State, Press Releases, December 31, 1938, p. 490.

order by the Chinese government under a visa and permit system. Access to the open ports is provided for in the treaties noted. The actual limits of residence and travel both in the open ports and in the interior have often been a matter of dispute between the governments of China and the United States.

C. Right to Protect Citizens and Property in China.

Since the beginning of the nineteenth century the United States government has asserted its right to protect its citizens and their property in China whenever conditions were such as to place its citizens and property in danger. The basis for the assertion of this right has been the generally accepted principle of international law giving any nation the right to take such measures as it sees fit to protect its citizens and their property in foreign countries whenever conditions are such that the local authorities are unable to preserve order and provide such protection. Specifically, the treaty of 1844 between the United States and China obligates the Chinese government to protect American citizens and their property and when the Chinese government has been unable or unwilling to provide such protection, the United States has assumed it had the right to provide the protection necessary. 1/

The right to station American naval forces in Chinese waters and along Chinese rivers is based on the general rights noted above and specifically on the interpretation of Article IX of the Sino-American Treaty of 1858 and the application of the most-favored-nation clause to similar articles in the British and French treaties with China of 1858. 2/

Under the rights noted above, units of the regular army of the United States, the United States Marine Corps, and armed guards from United States warships have been landed in China at different ports on various occasions to protect American lives and property. What amount to permanent garrisons have been maintained from time to time in Shanghai, Tientsin, Hankow and Peking and for shorter periods in other ports. Forces in the Peking-Tientsin area have been stationed there under the terms of the Boxer Protocol of September 7, 1901 for the purpose of guarding the American Legation (now an Embassy) in Peking and keeping open the communications between Peking and the sea, in addition to the task of protecting American lives and property.

At the end of August, 1937, a contingent of 528 United States Marines was stationed in Peking. The 15th Infantry of the United States Army numbering 814 officers and men was stationed in Tientsin. A force of 2,555 United States Marines were on duty in the International Settlement in Shanghai. Of this latter contingent, 1,500 of them were relief and reinforcements sent to Shanghai in August to cope with the emergency arising from the conduct of hostilities in the Shanghai area. One thousand Marines were withdrawn from Shanghai and the 15th Infantry was withdrawn from Tientsin in the early part of February, 1938.

1/ See Article XIX, Treaty of 1844; Article XI, Treaty of 1858; Article XVII, Treaty of 1903.

2/ See "Right to Protect Citizens in Foreign Countries by Landing Forces," Memorandum of the Solicitor for the Department of State, October 5, 1912. Third Revised edition, Washington, D. C., 1933.

At the beginning of the year 1938 thirteen naval vessels, part of the United States Asiatic Fleet based on Manila, were stationed in Chinese waters with a personnel of 129 officers and 1,671 men including United States Marines on warships. The United States Asiatic Fleet at this time consisted of forty-four units, all available for duty in Chinese waters. This number includes nine gunboats permanently on duty in Chinese waters. 1/

D. Rights as Corollaries to the Obligations of the Nine-Power Treaty.

The signatories to this Treaty, including Japan, agreed (in Article I):

(1) "To respect the sovereignty, the independence, and the territorial and administrative integrity of China."

(2) "To provide the fullest and most unembarrassed opportunity to China to develop and maintain for herself an effective and stable government."

(3) "To use their influence for the purpose of effectually establishing and maintaining the principle of equal opportunity for the commerce and industry of all nations throughout the territory of China."

(4) "To refrain from taking advantage of conditions in China in order to seek special rights or privileges which would abridge the rights of subjects or citizens of friendly states and from countenancing acts inimical to the security of such states." 2/

In Article III the signatories agreed ".....not to seek or support their nationals in seeking:

(a) "any arrangement which might purport to establish in favor of their interests any general superiority of rights with respect to commercial or economic development in any designated region of China."

(b) "any such monopoly or preferences as would deprive the nationals of any other power of the right of undertaking any legitimate trade or industry in China or of participating with the Chinese government or with any local authority in any category of public enterprise, or which by reason of its scope, duration of geographical extent is calculated to frustrate the principle of equal opportunity."

1/ See letter, Secretary of State Hull to Vice President Garner in reply to request of the Senate Resolution 210. Department of State, Press Releases, January 15, 1938, p. 100.

Of interest is a press report from Shanghai concerning the possibility of the increase of American forces there to 10,000 men to help maintain law and order in the event of the withdrawal of British and French forces elsewhere because of the war in Europe. New York Times, October 18, 1939.

2/ This paragraph was originally a secret clause of the so-called Lansing-Ishii Notes of 1917 exchanged between the United States and Japan and abrogated at the time of the Washington Conference, 1921. See U. S. Foreign Relations, 1922, and New York Times, June 10, 1938, p. 10.

And again in Article IV:

"The Contracting Powers agree not to support any agreements by their respective nationals with each other designed to create spheres of influence or to provide for the enjoyment of mutually exclusive opportunities in designated parts of Chinese territory."

This treaty is still considered legally in force since no notice of abrogation has been given by any of the signatories.

E. Rights in Special Areas in China.

Foreign settlements and concessions in the open ports of China developed as a means of making more effective the exercise of rights of extra-territoriality, trade, residence, and protection. Because of the instability of the Chinese government and the frequent civil wars and disturbances in China, it was early found desirable for foreigners to assume control over a special area in some of the open ports where their rights could be more effectively exercised, and where their lives and property could be more effectively protected. In the ports of Shanghai and Amoy, International Settlements were developed where all the Treaty Powers have equal rights. ^{1/} Also in Shanghai and other ports national concessions were granted to certain foreign powers to be administered exclusively through their representatives but serving as a place of residence for all foreigners. In practice the existence of these international settlements and national concessions has meant an extension or wider application of the right of extraterritoriality. Although technically Chinese sovereignty over the territory included in these foreign-controlled areas has not been voided, actually, jurisdiction and administration of the areas is in foreign hands and they are almost completely outside of Chinese control. Thus, the persons and property of foreigners and Chinese (where Chinese residence is allowed) within these areas are extra-territorial with respect to Chinese jurisdiction and they enjoy a greater degree of protection than in other parts of China.

American rights in the International Settlements in Amoy and Shanghai, in addition to the treaty right of residence and trade in these ports, are based on American acceptance of, and participation in the promulgation of the local Land Regulations or Municipal Codes which constitute the organic laws and establish the local government of these areas. By custom, although not by any legal right, the United States as well as certain other powers, are represented through their nationals on the governing bodies of the two settlements. Since the United States has participated equally with other powers in the establishment of these settlements, the United States government asserts the right to participate in any modifications of their status or administration, and to insist that no such modifications take place without its consent.

The United States does not control any concessions in China and consequently American citizens residing in these concessions possess no special rights beyond those of residence, trade, etc., already discussed. Although the United States protested the "grabbing" of national concessions in the nineties of the last century, American authorities have acquiesced in the application of local concession regulations to American citizens residing

^{1/} The "Treaty Powers" are those states possessing special rights in China by treaty. At present this list includes, Belgium, Brazil, the British Empire, Denmark, France, Italy, Japan, the Netherlands, Norway, Peru, Portugal, Spain, Sweden, Switzerland and the United States.

in these areas. On the other hand, changes in the status or administration of these concessions might, under certain circumstances, be held to be an interference with American rights.

The area set aside in Peking under the terms of the Boxer Protocols of 1901 for the residence of the diplomatic representatives of the various states having relations with China, known as the Legation quarter, is administered by the Diplomatic Body in residence. The United States has equal rights in this area with other powers, including the Japanese. The status of the area has been anomalous since 1927, when the capital of the recognized government of China was established in Nanking. Most nations, including the United States, maintain their embassy or legation headquarters in Peking but their ambassadors and ministers as well as other officials of the mission have been quartered at Nanking from time to time and since the outbreak of hostilities have followed the Chinese government to its war capitals, first at Hankow and now at Chungking.

II. AMERICAN INTERESTS IN CHINA

A. Economic

American economic interests in China consist of exports to and imports from China, American investments in business enterprises in China and American holdings of Chinese securities. In 1936, the United States stood first in China's foreign trade, furnishing 19.66% of China's imports and taking 26.44% of China's exports. This total, however, represented less than 3% of the foreign trade of the United States.

Estimates of American investments in business enterprises in China are difficult to obtain except through the long process of polling individual businesses as to their capital investments, returns, assets, etc. The most careful study of this sort was that conducted by Prof. C. F. Remer, the results of which were published in 1933. ^{1/} Of some 401 American firms operating in China satisfactory information was secured from 213 and estimates made for the remainder. ^{2/} The total of direct business investments by Americans in China was estimated by Prof. Remer to be \$155,112,778 in 1930. To this should be added American holdings of securities and obligations of the Chinese government to the amount of U.S. \$41,711,346 and the value of the property of American missions and philanthropic societies to the amount of U.S. \$43,071,189. The total of American holdings in China as of 1930, therefore, Remer estimates to be U.S. \$239,895,313 or roughly U.S. \$240,000,000. Remer does not consider that the value of the property of missions and philanthropic societies can rightly be termed "investments" and that, therefore, the total American investments in China, eliminating the above item would be U.S. \$196,824,124 or only 1.3% of the total foreign investments of the United States.

In 1931 the Grain Stabilization Corporation agreed to sell to China 15,000,000 bushels of wheat on credit. This amounted to \$9,212,826.52. In 1933 a credit of U.S. \$50,000,000 was granted to China through the Reconstruction Finance Corporation to be taken in American wheat and cotton.

^{1/} C. F. Remer, Foreign Investments in China, Macmillan, N. Y., 1933.
^{2/} Remer, p. 280.

All but U.S. \$17,105,385.80 of this latter amount was subsequently cancelled.

In May, 1936, an agreement was concluded between the Chinese Ministry of Finance and Secretary of the Treasury Morgenthau providing for the purchase by the United States of substantial amounts of silver from the Central Bank of China for the purpose of making available to the Bank dollar exchange for currency stabilization purposes. A year later, in July 1937, and again in December, 1938, further agreements extended and broadened the scope of this arrangement and made provision for Chinese purchases of gold and U.S. Treasury credits on the security of this gold. The official Export Bank in Washington has also been active in extending credits to facilitate Sino-American trade. In June, 1937 a loan of \$1,600,000 was granted for the sale of American locomotives to China. Again in December 1938 a credit of \$25,000,000 was extended to the Universal Trading Corporation of New York, under guaranty of the Bank of China, to encourage trade with China. These items might also be classed under the head of American economic interest in China. They are of course in a different category from that of private American holdings in China, set forth earlier, and those arrangements concluded since the outbreak of hostilities in July, 1937, have obvious political implications.

Only a few attempts have been made to estimate the amount of American holdings in China since the 1930 investigation by Professor Remer. An American official in Shanghai stated that it was his belief that American investments in China (excluding Manchuria) had declined by about \$20,000,000 due to various causes.

B. Missionary, Educational and Philanthropic Interests

Since the beginning of the last century Americans have been interested in all kinds of missionary, philanthropic and educational enterprises in China. Such activity has been carried on by representatives of such types of organizations in the United States and the establishment of more or less independent agencies and institutions in China receiving varying degrees of financial support. The value of property held by these societies and organizations has been given above and in general had not changed in any appreciable degree by the summer of 1937.

From a different point of view, the activities of these groups constitute a most important American "interest." Because of the fact that their workers are recruited from all parts of the United States and that the supporting societies and organizations in this country have a membership which in total covers all parts of the United States, there has been built up during a century a continuing interest in the welfare of the Chinese people. There is no doubt that the sympathy and interest exhibited by large sections of the American public in events in China is based on the above facts. Many people believe, and with adequate grounds for this belief, that these enterprises in China, have been of great benefit to the Chinese people and that, further, they have been of importance in the introduction of western ideas and culture in a country with an ancient and different civilization. Obviously, the extent and importance of this "interest" cannot be estimated in the same manner as the more tangible interests of trade and investments, but that it is important in any analysis of the relations of the United States with China cannot be denied.

According to estimates of the Department of State, the number of Americans residing in China, including Manchuria, as of July, 1937, was approximately 10,500.

The "interest" of the United States in China, is also a part of our wider interest in the maintenance of stability and order in the world. In the words of Mr. Hull, the Secretary of State, "The interest and concern of the United States in the Far Eastern situation, in the European situation and in situations on this continent are not measured by the number of American citizens residing in a particular country at a particular moment nor by the amount of American investments of American citizens there nor by the volume of trade. There is a broader and much more fundamental interest - which is that orderly processes in international relationships be maintained. Referring expressly to the situation in the Far East, an area which contains approximately half the population of the world, the United States is deeply interested in supporting by peaceful means influences contributory to preservation and encouragement of orderly processes. This interest far transcends in importance the value of American trade with China or American investments in China; it transcends even the question of safeguarding the immediate welfare of American citizens in China." 1/

1/ Department of State, Press Releases, January 15, 1938, p. 104.

PART TWO: THE EFFECT OF THE SINO-JAPANESE CONFLICT ON
AMERICAN RIGHTS AND INTERESTS.

Any study of the effect of the Sino-Japanese hostilities on American rights and interests in China must take into account certain factors which complicate the relations of the United States with both parties to the conflict, particularly with Japan. In the first place, no war has been "declared." Neither party to the conflict has issued a declaration of war or a declaration of a "state of war." Nor has any third state recognized the existence of a state of war or formally granted to either China or Japan a recognition of belligerent rights. ^{1/} In practice, however, both parties have acted as if legal war was in progress and have taken many measures normally adopted by belligerents in a declared war. In practice, third states including the United States have had to recognize unofficially the existence of hostilities and the resultant limitations on the normal exercise of their rights in China, both general and special, and the limitations on the normal operation of the interests of their nationals. In effect, the rule of military necessity has been accepted by third states including the United States as applying to areas in which fighting has been in progress, that is, third states have recognized the practical impossibility of exercise of their rights by their nationals in the zone of hostilities.

This condition of undeclared war, therefore, has complicated the attempt of the United States and other states to assert their rights in China, to protect the exercise of these rights by their nationals and to prevent their infringement. The situation is further complicated by the existence of special rights and privileges granted by China to the United States and other powers, including Japan, in various bilateral treaties between 1842 and 1920 and, further, by the existence of the Nine-Power Treaty negotiated at the Washington Conference in 1921. In the above-mentioned bilateral treaties, Japan and the United States, as well as other powers, are the recipients of special rights and privileges granted by China. In the Nine-Power Treaty, Japan and the United States, as well as six other powers are parties to specific commitments respecting their relations with China and of certain self-denying clauses designed to preserve the principle of equality of opportunity for the commerce and industry of all nations in China.

The situation is made still more complex by the institution of Chinese governing bodies sponsored by the Japanese and under their control whose status is not yet defined. The Peking Provisional Government, the Nanking Reformed Government, the Ta Tao or "Great Way" Municipal Government for Shanghai and numerous other bodies are all attempting to exercise varying degrees of power and sovereignty within the areas of Japanese penetration.

^{1/} The nearest approach to this was the declaration of principles issued on July 24 during the Anglo-Japanese discussions in Tokyo on the Tientsin situation. In this declaration Great Britain agreed to "recognize the actual situation in China" and the "special requirements" of the Japanese army there. The British government insisted this did not constitute a recognition of belligerent rights although it was more broadly interpreted by the Japanese.

Such action includes collection of taxes, maintenance of order and enforcement of local rules and regulations. Although Japan withdrew recognition from the Chinese national government of Chiang Kai-shek on January 16, 1938, no formal recognition has been accorded any of the new regimes in China. Third powers still recognize the National Government under Chiang Kai-shek as the government of China and have taken no official cognizance of any of the Japanese-sponsored regimes.

In addition to the complexities noted above, American rights and interests have been affected by the actual military operations with their consequent destruction, the actions of both armies in their combat with each other, the actions of the Japanese Army and Navy as a part of their war operations dictated and justified by them on grounds of "military necessity," and finally, by the measures taken by Japanese authorities and agents of the regimes which they are supporting in China.

It is not possible to determine the exact effect of each of these factors on the exercise of American rights and the operation and existence of American interests although this will be fairly clear as the subject is examined in detail.

III. EXTRATERRITORIALITY

Japan is not bound by any treaties or agreements to respect the extraterritorial rights of citizens of third states in China, but is, on the other hand, the recipient of a grant of the same right from China. The situation is complicated by the fact that the new regimes in China established under Japanese auspices have not been legally recognized by the Japanese as succeeding to Chinese sovereignty over the areas under their control and also by the fact that, Japanese officials have apparently attempted to assert what amounts to Japanese sovereignty over the territory under control of their armed forces. On June 28, 1938, the spokesman of the Japanese Embassy in Shanghai is reported to have stated that,

"Some third party nationals, now residing in Japanese-occupied territory in China, appear to labor under the misconception that they are above Japanese law because they enjoy extraterritorial status insofar as China is concerned. That is wrong. In the same way that aliens do not enjoy special privileges in Japan, they are not entitled to special treatment in Japanese occupied territory in China. It may be possible that they seem to think differently because of their long residence in China where they enjoy extraterritoriality."

In addition, there have been persistent statements from Japanese officials to the effect that as soon as a Chinese regime is established which the Japanese can recognize it will announce the abrogation of all foreign rights and privileges and the abolition of all foreign concessions and settlements. ^{1/} Japan, according to these statements, will at the same time voluntarily give up its extraterritorial rights and return its concessions in China to the control of this new regime.

Actually, however, in the absence of any legal changes in Chinese sovereignty, any attempt by Japanese authorities or Chinese authorities under Japanese control to enforce local rules or regulations on American citizens and their property can be considered a violation of extraterritoriality. Thus, every time an American citizen is forced by the circumstance of Japanese

^{1/} See New York Times, January 25, and 27, 1939.

occupation to obtain passes or permits for travel where he normally has a right to go; every instance of undue detention, every case of the imposition of taxes by such authorities could be called a technical violation of the right of extraterritoriality unless such actions were taken against American citizens or their property through the medium of American courts in China.

In practice, however, such illegal interference with the exercise of this right has had to be tolerated in the zone of hostilities. This has meant that the United States government has not attempted to enforce the exercise of this right but has confined its action to protests to the Japanese government and to collecting evidence in each case to be used as the basis for claims for damages against the Japanese government principally and in some cases against the Chinese government.

Reports of American officers in China indicate that cases of illegal arrest and detention have been comparatively few. In practically all cases, protests to the Japanese authorities on the spot and to the Japanese government, have resulted in the release of the citizens involved and in many cases apologies from Japanese officials. Much more numerous have been the cases of illegal search and seizure and occupation of American property; American citizens have been instructed to file statements of evidence in the case and protests have been made to the Japanese authorities as soon as the instance has been reported to the officials of the American government. A list of such cases compiled from both official and unofficial sources shows more than seventy-five serious cases of search, seizure or occupation in the period between July, 1937, and July, 1939. During the Japanese occupation of Nanking in the fall of 1937, over fifteen illegal entries of the property of the American Embassy in that city were reported. The list is far from complete and new cases are arising almost daily.

In most instances the Japanese authorities have contended that the violation of these rights was either committed because of "military necessity" or because of a mistake in the identity of the property. Such contentions have been objected to in all cases, whether arising in the actual zone of hostilities or not. In many instances, apologies from Japanese officials have been forthcoming. Some property under occupation has been given up. Very little movable property lost through looting has been recovered. In other cases, the Japanese have refused to give up property occupied. The most publicized case is that of the University of Shanghai, a million-dollar educational plant located a short distance east of the International Settlement in Shanghai, which has been occupied since August 1937. Only recently have University officials been permitted to survey the damage and make provisions for a caretaker. So far the Japanese have refused to turn the property back on grounds of military necessity.

In general, then, there are both legal and practical difficulties surrounding the exercise of the right of extraterritoriality under the unsettled conditions existing in the areas of Japanese penetration. It is the opinion of business men and missionaries that practical difficulties make it either impossible or at times unwise to attempt to exercise this right outside of the principal ports. American officials contend that the right is still operative and is still supported by all possible diplomatic means.

IV. RESIDENCE AND TRAVEL

Japan is under no treaty obligation to respect the right of Americans to reside, carry on trade in and travel to and from the open ports in China. It was recognized at the beginning of the war that the United States could not and would not expect to insist on these rights for its citizens in the zone of hostilities. On the contrary, the United States government has done what it could to protect the lives and property of its citizens and where this was not possible has requested their evacuation to points where they could be protected and, in the case of Shanghai during the three months of fighting there, carried out evacuation of some 3,000 citizens to points outside of China.

As the zone of hostilities moved inland, however, and as residents were permitted to return to the port cities, the United States government asserted the right of its citizens to reside and trade and travel in areas which were reasonably safe. ^{1/} Protests against Japanese restrictions on residence, trade and travel has been made on two grounds. First, that the Japanese authorities had no right to restrict residence, trade and travel in reasonably safe areas where their own civilians were permitted to go. Such restriction can be considered violation of American rights secured from China which Japan had no legal basis for interfering with. Second, that Japanese authorities have no right to discriminate in favor of their own citizens. Such discrimination can be considered as a violation of Japan's obligations under the Nine-Power Treaty.

Restrictions on the right of residence and access to the ports open to foreign residence have been in force since the beginning of the war in every city under Japanese control. These restrictions are variously enforced. Actually, Shanghai has been the only port where persons could land without passing through Japanese controls. Because of the existence of the International Settlement and the French Concession, persons landing from most foreign ships could go by lighter to the landing jetties of the Settlement or Concession and depart the same way. Customs control, however, is practically in the hands of the Japanese staff of the Chinese Maritime Customs Service. (See discussion of this service, p. 20.)

In the larger ports, such as Tientsin, Tsingtao, Amoy, etc., most foreigners are permitted to land, although if they remain more than ten days or two weeks they are often required to obtain a pass or other identification papers stamped by the local Japanese military or naval authorities or by the local provisional regime where such exists. This is true in Tientsin, for example, where the foreigner who remains longer than ten days must obtain either a permit or a visa on his passport from the local municipal authorities, i.e. the Chinese municipal government supported by the Japanese. In May, 1939, the Peking Provisional Government began issuing visas for entry into the North China area under its control. Such visas to date have been obtainable only at the port of entry. This control has not been strictly enforced on tourists, however, who did not remain more than two or three weeks. Prior to this date the port authorities in Tientsin considered a visa issued by Chinese National Government sufficient for entry!

^{1/} This applied only to those having a legitimate reason for such residence or travel and not to tourists who have been restricted to Tientsin, Peking and Shanghai and for some months only to Shanghai.

For travel outside the port cities, permits and passes have been required from the beginning of the war. These have been issued sparingly and often must be obtained from many different sets of officials. Travel to Nanking, for example, has required permits from both the Japanese military and naval authorities. Travel through the interior requires passes from each local Japanese group, military or naval, in control of the areas to be visited.

Restrictions on travel apply equally to residence in the cities under Japanese control, with the exception of Peking, Tientsin, Tsingtao, Shanghai and Amoy. In some of these ports, the existence of foreign-controlled areas permits foreigners to continue residence in these areas without permits issued by Japanese authorities. Those residing outside these areas, however, must obtain the necessary permits. American consulates in most ports and in the interior adopted the practice of issuing identification cards to American citizens thus obviating the necessity of residents carrying their passports with them in the normal course of their activities within the city itself.

So far as is known the United States government has not contended that American citizens should be allowed to travel freely without permits or passes issued by the Japanese authorities but has protested the use of this permit system to restrict residence and travel in areas not in the actual zone of hostilities. It is presumed that if such permits were issued generally to the areas where the Japanese authorities permit their own private citizens to travel and reside, there would not be much objection by the United States to the requirement for permits, although this would still technically constitute a violation of American rights unless specifically assented to by the United States government. It was felt, apparently, that protests against the pass and permit system would have little effect and the United States government has therefore limited its efforts in this direction to the attempt to gain permission from the Japanese for the residence and travel of Americans in cities and areas under Japanese control where no hostilities were in progress. For example, permission has been secured for the return of over 250 Americans to Nanking and points in the lower Yangtze Valley. Similar action was successful in making possible the return of small numbers of Americans to Shantung Province and points in North China. Most of these people have been missionaries desirous of continuing their work and of saving their property from destruction or occupation.

Aside from a certain amount of increased vigilance on the part of Chinese officials at points of entry, the Chinese National Government has placed no new restrictions on the entry of American citizens into areas under its control. Travel in the interior areas still held by the Chinese National Government has been subject to general conditions to be found in any country at war but no general violations of American rights have been involved. Some cases of illegal detention, illegal occupation and seizure of American property by the Chinese have been reported. In these cases protests have been immediately made by the proper American authorities and adjusted by the Chinese Government in accordance with previous practice.

In general, the right to trade in the open ports of China has been limited primarily by the existence of hostilities at these ports. From time to time the Japanese have given notice of the closing of various ports while

military and naval operations were being conducted against Chinese forces in possession of these ports. ^{1/} Although in many cases, American ships have refrained voluntarily from calling at these ports during the period of hostilities, the United States government has protested this action as illegal. The most notable case was that of Shanghai, where from August, 1937, to the spring of 1939 the Dollar Steamship Company, (later reorganized as the American President Lines), omitted Shanghai as a port of call. While protesting these restrictions as illegal, the United States government requested American ships to stay away from the zone of hostilities at the outbreak of the war.

Trade with the interior has been restricted both by the existence of hostilities and by the specific refusal of the Japanese officials to permit inland navigation on the Yangtze River and on the Pearl River to Canton after the capture of that city in October 1938. Restrictions have been protested both on the grounds of violation of the right to trade and on the grounds that Japanese authorities were discriminating in favor of their own nationals. (See discussion under Nine-Power Treaty rights.)

V. PROTECTION OF AMERICAN CITIZENS AND PROPERTY

As in previous instances of hostilities in China, the United States government attempted to protect the lives and property of its citizens as far as possible by requesting their evacuation from danger zones and by asking them to concentrate in ports where protection could more easily be furnished. Interference with the exercise of this right resulted from the progress of actual hostilities over a wide area in eastern China, from the restrictions established by the Japanese officials as to inland navigation and movement of persons in the interior and attempts of Japanese naval authorities to close various ports along the coasts of China to foreign ships.

In general the attempts of the United States government to evacuate its citizens were not seriously interfered with although many obstructions were placed in the way of the American authorities. Approximately 4,600 American nationals were evacuated from China up to November 6, 1938. ^{2/} About 3,000 left Shanghai during the period of hostilities in the fall of 1937. Several special trains were run from Hankow to Canton, before that city was captured, for foreigners wishing to leave the interior, and without mishap. The greatest interference in this service of protection has come in connection with the use of the Yangtze River. For months after the fall of Hankow, the few Americans remaining there were practically cut off from any means of exit from the city. It was only after repeated requests for permission to evacuate these nationals, and repeated delays on the part of the Japanese, that Admiral Yarnell, the Commander-in-Chief of the American Asiatic fleet, went to Hankow in April, 1939 in his yacht the "Isabel," accompanied by a gunboat, and returned with some 80 foreigners, including about 40 Americans. Other Americans in the Yangtze Valley were evacuated on Japanese ships to Shanghai.

^{1/} Such as Amoy, Swatow, Wenchow, Pakhoi, and others.

^{2/} Letter of Hull to Garner in reply to request in Senate Resolution 210, Department of State, Press Releases, January 15, 1938, p. 101.

With limited armed forces in China, it has obviously been impossible for American authorities to accord physical protection to those Americans who either elected to remain in the interior or were unable to leave. The same thing is true of protection of American property outside of the principal port cities. In the coastal port cities American military and naval forces have been constantly used, first to protect the lives of citizens and to protect their property wherever possible. Few attempts have been made to send armed forces into the zone of hostilities to protect American lives and property except in Peking, Tientsin and Shanghai where forces were already at hand before the hostilities started. In these cities, the amount of protection given has been limited of necessity to the most vital areas and most valuable properties. In Shanghai, for example, an American Marine guard was maintained constantly at the premises of the American-owned Shanghai Power Company, even though the Company's plant was in the middle of the zone of hostilities in Hongkew. This protection was granted because of the vital importance of the plant as a public utility.

On several occasions when the Japanese Navy was commencing operations against a port area held by Chinese forces, attempts have been made to exclude foreign ships, including warships, from such ports. This was true, for example, in Swatow in May, 1939. In all such cases the United States government has insisted on its right to send its forces to such ports for the protection of the lives and property of its citizens and in no case has this action been successfully challenged by the Japanese.

For obvious reasons, the question of interference in the exercise of this right by Chinese authorities has not arisen. One exception was during the hostilities in Shanghai, when the United States government protested to the Chinese government concerning flights of its bombing planes over the settlement as endangering American lives and property. (Several Americans were killed and some property destroyed by Chinese bombs falling in the Settlement area.)

VI. RIGHTS IN SPECIAL AREAS IN CHINA

A. International Settlement at Shanghai

The first effect of the spread of hostilities to the Shanghai area in August, 1937, was the occupation by Japanese forces of all of the northern and eastern districts of the International Settlement except a small enclave leading to the North Station. This action was taken by the Japanese, as in 1932, under a plan for the defense of the Settlement by which in time of danger foreign forces were landed to protect the Settlement and by common agreement were assigned to various sectors. In the defense plans of 1927 and 1931 the Japanese forces were assigned to the northern and eastern districts (with the exception of the enclave mentioned above) since most Japanese nationals and property are located in these districts. The action of the Japanese forces in 1937 differed somewhat from that of 1932, in that in the previous year it had been undertaken as part of a procedure following a declaration of a State of Emergency by the Municipal Council of the Settlement and at a request for assistance transmitted to foreign commanders through the Consular Body. In 1937, no State of Emergency was declared. The non-Japanese foreign forces took over their defense positions after the Japanese had landed armed forces asserting their right to do so for the purpose of protecting their nationals and their property. Again, whereas

in 1932 the Japanese forces usurped all the functions of the Municipal Council in these districts, in 1937 the Council was able to maintain several police posts in the northern and eastern districts and thus maintain a semblance of its authority in these areas.

The effect of this occupation, first, was the prosecution of hostilities within the Settlement itself and around its northern, eastern, and later its western and southern boundaries. (American losses as a result of these hostilities are discussed elsewhere.) During the period of hostilities severe restrictions on the entry of foreigners into these areas were in force. Only after repeated protests by local American officials and by the United States government direct to the Japanese government were American citizens allowed to even survey the damage done to their property. Finally, as hostilities gradually moved inland, permission was granted to American citizens and other foreigners to remove personal effects from their property and in a limited number of cases to remove perishable goods, some medical equipment and other material.

Restrictions on the movement of American citizens in these districts have continued in force to date. Passes are required of all persons crossing Soochow Creek to go into the area and movement within the area or through it to the surrounding urban area north and east of the Settlement boundaries has been forbidden in many cases. Persons going into the area have been detained by Japanese police and army and navy officials on many occasions when their movements seemed suspicious or when they did not show proper respect to the Japanese authorities. Sentries on the Garden Bridge, the principal point of entry, have not attempted to search the persons of American citizens or forced them to bow to them as they pass except in a few cases. These measures are enforced on the Chinese.

Automobiles and parcels or packages are subject to search, however, and Americans or other foreigners who do not show proper respect to the sentries or other officials on the bridge or within the occupied districts have been subjected to detention and rough treatment on several occasions. Specific cases, such as those mentioned above, have been immediately protested by the American authorities and in most instances official apologies have been forthcoming from the Japanese.

Residence of Americans in the northern and eastern districts is subject to Japanese control and to innumerable rules and regulations which are enforced by Japanese police and other officers acting under their authority and support. This has itself acted as a deterrent to American residence in the districts, where only a few Americans lived before 1937. Most Americans dislike to go into these areas except in cases of necessity or in connection with their business.

These restrictions on entry into, movement within, and residence in the districts of the Settlement under Japanese control have been considered by the United States government as illegal and a clear violation of American rights. The United States government has supported the Shanghai Municipal Council on repeated occasions in demanding that these areas be returned to municipal control. So far, these protests have accomplished nothing, usually being countered by Japanese demands for "reform" of the administration of the Settlement.

Since the United States possesses equal rights in the International Settlement along with the Japanese and other powers, the United States government has taken the position that any change in the status of administration of the Settlement undertaken without its consent constitutes a violation of American rights. Before the present conflict the Japanese authorities in Shanghai frequently requested a greater participation for their nationals in the Settlement administration and also larger representation on the Municipal Council. These matters have been considered by the Council itself and discussed in the meetings of the Consular Body but always on the basis that changes require the consent of the Municipal Council, the qualified ratepayers of the Settlement, and, with respect to changes in the municipal code, the Land Regulations and By-laws, the consent of the various states having equal rights in the Settlement.

After August, 1937, various Japanese, both officials and non-officials, have made statements concerning the need for greater Japanese participation in the government and the administration of the Settlement. It was not until January 4, 1938, however, that anything in the nature of "demands" was made by the Japanese authorities directly on the Municipal Council. On that date, at a meeting of the Council with Japanese military, naval and consular authorities, the Council was requested to provide for the appointment of Japanese nationals to high positions in the administration of the Settlement, for the appointment of a Japanese Deputy Commissioner of Police and enlargement of the Japanese members of the police force of the Settlement presumably giving to Japanese nationals in the employ of the Council full police control over the districts under their occupation and much greater participation in the making of municipal policy. The Council countered these proposals on March 18 by agreeing to add a few Japanese to the police force and to appoint a Japanese Deputy Commissioner of Police with the same authority as other Deputy Commissioners. The Council also requested immediate restoration of the northern and eastern districts to its authority.

From this date until May, 1939, no further action was taken, although the Japanese authorities did from time to time demand action for the suppression of "anti-Japanese" elements in the Settlement and suggestions were made that changes would have to be brought about in the near future. The Japanese also attempted unsuccessfully to gain control of the appointment of judges to the Chinese courts in the International Settlement and the French Concession. These courts are the successors to the old Mixed Courts of the Settlement and Concession established in 1931 by an agreement with the Chinese government to which the United States government was a party insofar as the Settlement courts were concerned. The judges are appointees of the Chinese Nationalist Government and have continued to function under its authority since the beginning of the 1937 hostilities.

On May 3 an "aide-memoire" was presented to the American Ambassador in Tokyo by the Japanese Vice-Minister for Foreign Affairs dealing with the Shanghai situation. Presumably similar documents were given to the representatives of other powers having rights in the Settlement. The "demands" in this document included revision of the Land Regulations to provide for greater Japanese participation and representation in the Settlement government, revision of the administrative machinery of the Settlement for the same purpose, closer cooperation between the Settlement authorities and the Japanese supported regimes of the lower Yangtze Valley and the appointment of judges to the Chinese courts in the Settlement by authorities other than those of the Chinese National Government.

The United States government replied to this aide-memoire on May 17, 1939, and upheld the Municipal Council in its efforts to meet the problems and difficulties arising from the hostilities.^{1/} It reiterated its contention that any changes in the Land Regulations or the status of Chinese courts in the Settlement could only be brought about through negotiations conducted by all states having rights in the Settlement. The government also specifically called attention to the refusal of the Japanese authorities to restore the eastern and northern districts to Municipal Council control.

So far as is known, no further demands have been made by the Japanese government although there has been constant pressure by Japanese officials at Shanghai on the Municipal Council to accede to previous demands. It should be noted, parenthetically, that the Japanese could bring about a considerable change in the administration of the Settlement and an effective, although possibly illegal, change in its status by the perfectly legal method of electing a majority of Japanese to membership on the Municipal Council. Under the Land Regulations, the nine foreign members of the Council are elected by foreign rate-payers possessing certain property qualifications in the Settlement. Since the World War, when the northern and eastern districts of the Settlement became the location for an expanding industry, foreign residents of these areas have moved in large numbers to the French Concession for residential purposes. This has reduced somewhat the number of non-Japanese foreigners qualified to vote in municipal elections. The Japanese population of these districts, however, has increased steadily and particularly since the summer of 1937. The effect of this increase became apparent in the Municipal elections of 1939 when it was found that the number of qualified Japanese voters had increased by some 500 over the previous year.

The following table indicates the possible significance of this increase:

		1938	1939
Foreign rate payers qualified to vote	approx.	3700	4200
Japanese		800	1300

Therefore, a similar increase in 1940 would give the Japanese the opportunity to elect whomever they chose to the nine foreign seats on the Council. The 1940 increase might be offset by increasing the number of non-Japanese foreign ratepayers but it is conceded that even if every foreigner qualified, the rapid increase in Japanese residents would more than offset this. There is also the possibility that the five Chinese members of the Council, elected by the Chinese ratepayers of the Settlement, might come under Japanese domination. A Japanese dominated-Council would most certainly tend to end British and probably American influence in the Settlement administration and might further impair the exercise of American rights, although no change in the Land Regulations and By-laws of the Settlement could be legally effected without the consent of the United States government.

B. The International Settlement of Kulangsu (Amoy)

This International Settlement, in which the United States possesses rights similar to those in the Shanghai Settlement, is located on the island of Kulangsu, Amoy. Japanese occupation of the port of Amoy immediately affected the rights of foreigners since restrictions were imposed on movement between the island and the mainland, where many foreign businesses have their offices.

^{1/} Department of State, Press Releases, May 20, 1939, p. 421.

Although the Japanese possess equal rights with the United States and other powers in the Settlement, it has remained intact and under the control of its Municipal Council to date. "Suggestions" were made from time to time by the local Japanese officials, again similar to the statements regarding the Shanghai Settlement, that there be greater Japanese participation in the Settlement administration and more Japanese representation on the Municipal Council. The Kulangsu Council took the same attitude as its counterpart in Shanghai. Finally on May 12, 1939, a force of Japanese marines was landed on Kulangsu ostensibly because of the shooting of a local Chinese official of the Japanese-supported regime in Amoy. Almost immediately, however, extensive demands were made on the Municipal Council for revision of the Land Regulations and reorganization of the administration of the Settlement and stricter control of "anti-Japanese" elements in the Settlement. French, British and American forces were landed in the Settlement in equal number to the Japanese and there then ensued a series of protracted negotiations between the naval and consular authorities of the four Powers. In general, the representatives of the United States took the same line of contention as in the Shanghai situation, opposing any drastic changes in the status or administration of the Settlement without proper negotiations and before order has been more generally restored in China, and supporting the efforts of the Municipal Council in dealing with the Japanese requests.

Finally the Municipal Council acceded to some of the Japanese demands for an increase in Japanese personnel in the Settlement administration and promised to take more effective steps to control "anti-Japanese" elements. It was announced on October 19, 1939, that the question had been settled satisfactorily and that Japanese and other foreign forces would be withdrawn.^{1/}

C. The Legation Quarter in Peking

During the early months of the war protests were made by the United States to Japan concerning military activity in the Legation Quarter, but since the occupation of Peking by Japanese military forces and the restoration of order no further occasions for protest have arisen.

D. Foreign Concessions

As previously stated, the United States holds no concessions in China. Its citizens, however, have been permitted to reside in the national concessions of other powers where they enjoy greater immunities than in Chinese territory and rights similar to those in the International Settlements. A change in the status or administration of these concessions would not, *per se*, violate any rights of American citizens, but most certainly would affect the exercise of these rights. Americans living in the British Concession in Tientsin, for example, are free to exercise their right of extraterritoriality without interference from Chinese or Japanese authorities. The disappearance of these concessions or a grant to the Japanese authorities or the officials of their Chinese regimes in China of rights of arrest and search within the Concessions with respect to the Chinese residents, may in the long run place American citizens living in these areas on the same basis as those who live in Chinese cities under Japanese control. And insofar as changes in the status and administration of the Concessions would undoubtedly be accompanied by attempts to effect changes in the International Settlements where the United States does possess rights, the United States has an "interest" in the existence of these concessions.

^{1/} Washington Post, October 19, 1939.

VII. RIGHTS UNDER THE NINE-POWER TREATY

Toward the end of 1937, when Sino-Japanese hostilities had spread over a wide area, the Japanese began to set up various regimes supported by their military forces. The agents of these regimes as well as the Japanese authorities in China then began the introduction of a series of measures designed to assist Japan in making her conquest pay. The general effect of these measures was to discriminate in favor of Japanese business and Japanese trade in China as against non-Japanese business and trade. The measures undertaken can be grouped as follows: 1) taxation; 2) revision of tariff schedules; 3) operation of the Customs Service and collection of customs duties; 4) exchange control; 5) import and export control; 6) establishment of monopolistic and other types of enterprises; 7) discrimination in shipping facilities and inland navigation; and 8) nullification of the operations of the Yangtze Conservancy Board.

The measures listed above have all been protested as contraventions of Japan's obligations under the Nine-Power Treaty and consequently as violations of the rights of third states under that treaty.

A. Taxation

In addition to customs duties, commodities imported into China or moved from the interior to coastal ports for export have been subjected to varying forms of taxes, dues, fees and transit duties. When China was granted tariff autonomy through the bilateral treaties concluded between 1928 and 1932, it was on the understanding that the old internal transit tax known as "likin" would be abolished. Although there is evidence that this tax continued to be levied in some districts of China in one form or another as late as 1937, it is generally conceded that the Chinese government had made a successful effort to abolish it in areas directly under its control. Reports in 1938 from the areas occupied by Japanese forces indicate that the transit tax has been re-introduced by the Japanese and is collected by various Japanese-supported provisional regimes and in some districts directly by the Japanese authorities. For example, the Ta Tao ("Great Way") Municipal Government fostered by the Japanese to replace the Chinese Municipality of Greater Shanghai, announced in June, 1938, the enforcement of this type of levy on nearly forty articles such as gasoline, vegetables, fish, fuel, cotton, cotton cloth and the like. The tax averages five per cent ad valorem and in some cases is as high as fifteen per cent on goods entering or leaving the Shanghai area.

Foreigners in the interior report the levy of similar transit taxes and other dues often aggregating fifty to sixty per cent of the value of the commodity. It has been estimated that as many as twelve different taxes are collected on commodities within a hundred-mile radius of Shanghai. Similar reports are made for the Peking-Tientsin area and for Shantung province. These taxes are illegally levied, since the regimes making the levy have no legal status and they are discriminatory since Japanese goods escape some or all of the levies.

In addition, the Japanese-sponsored regimes in Peking and Nanking are attempting to collect various taxes formerly levied by the Chinese National Government, but without any legal authority to do so as far as foreigners are concerned. These include the consolidated consumption tax

formerly collected by the Kiangsu-Anhwei-Chekiang Consolidated Tax Bureau and now collected by the Kiangsu-Anhwei-Chekiang Revenue Bureau of the Nanking Reformed Government. This agency also collects the Consolidated Tobacco Tax. The wine tax, mining tax and income taxes are all being levied at approximately the same rates as previously under the Chinese National Government.

Collection of these taxes is considered an illegal assumption of authority in the first place and a discriminatory action in the second place since there is considerable evidence that such taxes are not regularly levied on Japanese goods or that lower rates apply to Japanese goods or that refunds are made. The illegal collection of these taxes places the American shipper in a difficult position. He can stand on his rights and submit the case to the proper American authorities, who will in turn protest such measures to the proper Japanese authorities. Meantime, however, trade is at a standstill and no remedial measures are taken by the Japanese. Consequently those American importers or exporters who have been able to do some business in the interior either through their own previously established agents, or through the Chinese or even Japanese agents, prefer, in most cases, to pay the taxes levied and file their protests.

How much trade is going on in spite of these restrictions, is almost impossible to estimate. It is a fluctuating trade, sometimes profitable and sometimes not, and is carried on only in the face of constant delays, irritations, and obstructions.

B. Tariffs

China's first national tariff, put into effect on February 1, 1929, was little changed from the schedule adopted provisionally by the Peking Tariff Conference and was a generally moderate one. Subsequently, the tariff was revised upward on several occasions prior to 1937. Following the setting up of the Japanese-supported Peking Provisional Government and the seizure of customs control in North China a reduced tariff on a good many items was announced on January 20, 1938, and in June of the same year a revised schedule for North China was issued. This schedule approximated the Chinese government schedule of 1931 which generally favored Japanese commodities. A similar move was made by the Japanese sponsored Nanking Reformed Government on May 31, 1938.

These schedules have been held to discriminate in favor of Japanese commodities as against those of non-Japanese foreign origin. The duties on piece-goods, for example, were lowered fifty to sixty per cent, on sugar seventy-five per cent, and on cement seventy-five per cent. This action by the two provisional regimes is considered an illegal interference with American rights, first because the tariff autonomy recognized by the United States government is that accorded to the Chinese National Government; and second, because such schedules are discriminatory and operate as a system of preferences for Japanese goods, promulgated and enforced at the instance of the Japanese government in violation of its obligations under the Nine-Power Treaty.

C. Chinese Maritime Customs Administration

The collection of Chinese customs revenue since 1854 has been in the hands of the Chinese Maritime Customs Service originally organized and staffed principally by foreigners but tending since 1928 to come more and more under

Chinese control. Since the granting of tariff autonomy to China, the chief interest of foreign governments in the customs administration has been in connection with the servicing of various foreign loans secured by customs funds and in the foreign personnel of the service.

As was the case in Manchuria after September, 1931, the Sino-Japanese hostilities of 1937 resulted in the taking over of the collection of the customs in various ports by the agents of Japanese-sponsored governments subject to certain limitations imposed by the pressure exerted by foreign governments to prevent complete Japanese domination of the personnel and sequestration of the funds collected. Even prior to July, 1937, there had been considerable Japanese interference with the customs service in North China. Huge quantities of goods were smuggled into this area under Japanese military protection and customs officers were often prevented from collecting duties on such goods by armed interference. The agents of the Japanese-controlled Hopei-Chahar Political Council attempted to seize customs stations and take charge of customs revenue.

On the outbreak of hostilities in July, 1937, in North China, there was again increased Japanese interference in the customs service in Tientsin and other northern ports which resulted in December of that year in the complete taking over of the service for Tientsin, followed rapidly in 1938 by the taking over of customs collection in Chefoo and Tsingtao. Every port in North China is now in Japanese hands and the customs revenue is being collected by Japanese agents.

Japanese seizure of the wharves and docks in the northern and eastern districts of the Shanghai International Settlement shortly after the outbreak of hostilities there in August, 1937, effectively eliminated the collection of customs duties on entering Japanese goods which were landed in this Japanese-controlled area in large quantities for transport to the interior duty-free. The Japanese assert that such goods were military stores, but neutral evidence is all to the contrary and there is no means of checking either the quantity or the amount of duty paid, if any. This situation lasted from August, 1937, to approximately June, 1938, when practical Japanese control of the Shanghai customs was secured through a "working agreement" between the Japanese and British governments. This agreement gives the Japanese the right to place all revenue collected in Shanghai on deposit in the Yokohama Specie Bank and the British interposed no objections to additions of Japanese personnel to the customs service.^{1/} Seizure of other Chinese ports has resulted in similar Japanese control of customs revenue and at present there is not a single port of consequence on the Chinese coast where this is not the case.

Since 1854 the principal personnel of the Customs Service has been foreign. The chief officer, the Inspector-General, has to date been a British citizen although by agreement the service is operated as an agency of the Chinese government under its control. The authority of the Inspector-General over the service has few limits, particularly in respect to the personnel. In 1927, however, the then Inspector-General Sir Francis Aiglen, was dismissed by the Chinese government in Peking for alleged failure to comply with its request that he collect surtaxes, which action he held to be contrary to the terms of the treaties between China and the foreign Powers. After protests

^{1/} Foreign observers in Shanghai insist that large amounts of Japanese goods are still coming in duty-free.

from the Diplomatic Body in Peking, another Englishman, Mr. A. H. F. Edwards, was appointed to the chief post. The new Chinese National Government under Chiang Kai-shek forced a change and appointed (Sir) Frederick W. Maze to fill the position of Inspector-General in January, 1939. In addition the Treaty Powers agreed that the higher positions, including that of Commissioner of Customs, would henceforth be open to qualified Chinese.

According to a promise made by the Chinese to the British in 1898, an Englishman was to fill the post of Inspector-General as long as the trade of Great Britain was larger than that of any other nation. Between 1930 and 1932, Japan exceeded Great Britain in China's foreign trade and from 1932 to 1937 the United States stood first. Since 1937 Japan has again gained first place. Control of the Customs Service, then, might conceivably pass to Japanese hands by the ousting of the present Inspector-General and his replacement by a Japanese, provided that the Japanese claim to be first in China's foreign trade and disregard the conditions of certain loans made with British and German banks in which the Chinese government promised to continue "the administration of the Chinese Imperial Maritime Customs Service as at present constituted through the continuance of the loan." Obviously the present Chinese government would not agree to such a change, but with the coastal ports of entry in Japanese hands, a Japanese-recognized Chinese government might attempt the change.

So far as is known, no attempts have been made to oust the Inspector-General as apparently the Japanese have been content to place their own appointees in lower positions. In June, 1938, it was reported that a number of Japanese nationals had been added to the outdoor staff of the service and a considerable number of Chinese acting under orders of the Peking and Nanking regimes have been placed in positions in north and central China. In May, 1938, the position of Superintendent of Customs for Shanghai was filled by an appointee of the Nanking Reformed Government.

The ships operated by the Customs Preventive Branch have all been taken over by the Japanese and the previous work of this branch in attempting to prevent smuggling has been nullified.

D. Foreign Loans and Customs Revenue

As in Manchuria, Japanese control of the collection of customs duties has resulted in the branches of the Yokohama Specie Bank becoming the repository for funds collected. This action was regularized for Shanghai by the Anglo-Japanese agreement of May 3, 1938, previously referred to. A proviso of this agreement was that proportionate allocations from such funds collected at ports under Japanese occupation would be regularly made for the servicing of foreign loans secured on customs revenue. Since there was no means provided for implementing this agreement, there is no guarantee whatever that these loans will be serviced and no promise that these funds will not be used for other purposes.

A statement was made by the Japanese Embassy spokesman in Shanghai on January 14, 1939, that Japan was refusing to service foreign loans secured by customs revenues until the Chinese National Government paid arrears on the

Japanese share of the Boxer Indemnity.^{1/} These arrears were reported to be over U.S.\$2,000,000. Protest was also made by the Japanese over the refusal of the Chinese government to carry out other conditions of the Anglo-Japanese Loan Service Agreement of May 3, 1938, which the Chinese authorities had refused to recognise as valid. The Chinese National Government replied that they would be willing to set aside proportionate shares of the customs revenue collected at ports of entry still under their control for the servicing of foreign loans and hoped that the proportionate amounts from ports under Japanese control would also be set aside for this purpose.

In 1938 the Chinese National Government continued to service foreign loans from funds collected by the customs and from other sources. The service of the Consolidation Note of the American Wheat and Flour Loan of 1931 and the American Cotton and Wheat Loan of 1935 was met in full, to the amount of \$10,122,775.73.

E. Currency and Exchange Control

Prior to 1937, the Japanese government had established the so-called "yen-bloc" including Japan and Manchoukuo. With more or less effective control established in north China at the end of 1937, announcements were made of the extension of this "yen-bloc" to north China and presumably to all areas of China which might come under Japanese control. In March, 1938, the Peking Provisional Government announced the establishment of the "Federal Reserve Bank" for north China, which began to issue paper currency called Federal Reserve notes. It was intended that this currency would gradually replace the old Chinese government currency as legal tender for north China. Since the notes were not directly convertible into foreign exchange, the desired result was not achieved and the Chinese notes still continued to circulate. In March, 1939, the Peking Provisional Government decreed the abolition of the Chinese currency in north China. Immediate enforcement of this decree was attempted and Chinese were searched at various centers and old Chinese currency found in their possession either confiscated or exchanged for F.R.B. notes. This did not prevent the circulation of the Chinese currency in the British and French Concessions in Tientsin by both Chinese and foreigners.

At the time of this decree, it was also provided that the new notes were to have given an arbitrary exchange value of 1s 2d, ^{2/} and that foreigners must secure exchange permits through the new Federal Reserve Bank proving an exchange settlement at the official rate. Since the foreign banks refused to accept the F.R.B. notes in exchange transactions, this forced the foreign merchants to deal through the Yokohama Specie Bank, agent for the Federal Reserve Bank in the Concessions. The immediate effect of this exchange control on transactions of American and other foreign importers and exporters was to slow up trade and force the exporter to make a "link" arrangement with some importer to overcome the arbitrary exchange rate. The difference in exchange was handled by the importer and paid to the exporter, the importer making this up by higher prices. Trade was therefore curtailed by the controls and the further indirect effect was to make possible the inclusion of north China in Japan's domestic market, since the F.R.B. notes, the Manchoukuo yuan and the Japanese yen were exchanged at par. This meant

^{1/} The Times (London), January 16, 1939.

^{2/} The exchange rate on Chinese currency was about 8d.

that the interior was flooded with Japanese goods to the detriment of foreign goods and constituted a discrimination against non-Japanese foreign trade with north China.

In addition to the F.R.B. notes circulated in north China - which now have attained a wide acceptance due to the measures taken to abolish the use of Chinese currency and the consequent hoarding of this currency - other types of currency have been introduced in north and central China.^{1/} Yen notes of various Japanese banks are in circulation as well as various types of military notes issued locally in the interior. The Inner Mongolian government supported by the Japanese Kwantung Army has its own notes and in May, 1939, the Japanese in Shanghai announced the establishment of the Hua Hsin Commercial Bank to be supported by the Nanking Reformed Government and six Japanese banks which began the issuance of notes for the lower Yangtze Valley area. Although the Hua Hsin currency was supposed to be freely convertible into foreign exchange and also exchangeable with the Chinese currency and the F.R.B. notes, it is only gradually being accepted and Chinese currency is still available for exporters and importers in Shanghai. The foreign banks in Shanghai have not yet decided to deal in this new currency.

In general, then, the effect of the introduction of these new currencies and the accompanying exchange control in north China has been to restrict and delay foreign exchange transactions and make uncertain the future of foreign trade. A second, and more important, effect has been to make possible an increased amount of Japanese trade in the areas under their control which acts in turn as a deterrent to any increase in importation of non-Japanese goods and to any increase in the export of commodities by non-Japanese merchants.

Coincident with the establishment of the new Japanese-supported currency in north China, the Chinese National Government announced on March 14, 1938, a "foreign exchange allotment" system. This system almost at once tended to restrict trade, particularly exports, and allotments for imports were restricted to the importation of non-luxury items. The adverse effects of the "currency war" which developed in June of this year on foreign trade in Shanghai together with the attempts of the Chinese government to stabilize its currency at a lower level has caused much uncertainty and any predictions concerning the ultimate effect on American trade cannot be made except to say that these very uncertainties work to the advantage generally of the Japanese and to the disadvantage of the American traders.

F. Import and Export Control

The setting up of new currency in north China by the Peking Provisional Government made possible a system of import and export control. In December, 1938, the Peking regime announced the establishment of export control over twelve commodities and import control over twenty-one commodities. This decree was enforced with respect to the twelve export commodities with the inauguration of exchange control in March, 1939. The exports banned completely, so far as non-Japanese traders were concerned, or limited to such a degree that trade in them was almost impossible, were eggs and egg products,

^{1/} It is reported that the circulation of F.R.B. notes is now 20,000,000.

peanut oil, peanuts, apricot seeds, cotton seed, leaf tobacco, vermicelli and macaroni, coal, woolen carpets and rugs, straw braid and straw hats, and salt. Control had been established previously over the export of raw cotton, hemp, sheep wool and some types of heavy furs. Actually this meant a monopolization by the Japanese of trade in these products.

The effect was to practically eliminate American trade in the twelve commodities (except what had been previously contracted for) and most American exporters were forced to turn to uncontrolled commodities, of which there were very few, or to shift their business to that of importing. So far the twenty-one items on the list of controlled imports can still be dealt in, subject to the restrictions of exchange control. American business men in Tientsin, however, are not optimistic and believe that sooner or later a rigid import control will be established.

The Nanking Reformed Government has also issued a list of exports and imports which may possibly be regulated in the future. Such control seems now dependent on the outcome of the currency situation and on the success of the Hua Hsin Commercial Bank in getting its note issue accepted. Since it is believed that this issue to date does not run much over 1,000,000, such control may not eventuate for some time.

Japanese trade is little affected by these control measures. Their effect, therefore, is undeniably discriminatory as regards American import and export business.

G. Establishment of Monopolistic and Other Enterprises

One of the obligations of the Nine-Power Treaty was that its signatories would refrain from supporting their nationals in "any arrangements which might purport to establish in favor of their interests any general superiority or rights with respect to commercial or economic development in any designated region of China" and, "any monopoly or preferences as would deprive the nationals of any other power of the right of undertaking any legitimate trade or industry in China..."

Soon after the outbreak of hostilities discussions began among Japanese officials and business men as to the economic development of the Chinese areas under their control or potentially under their control as the Japanese armies pushed inland. In part these discussions were predicated on attempts of the Japanese to expand their trade and industries in China, particularly north China, in the years immediately preceding 1937. It was evident, however, that with the control of north China and the lower Yangtze Valley in Japanese hands, these plans would have to be enlarged.

The policy on which this economic development was to be based was stated in a Reuter's report of an interview between the Japanese War Minister General Itagaki and Premier Prince Konoye on June 13, 1938. In this interview, General Itagaki is reported to have expressed the view that economic measures should be based on "realities aiming at the exploitation of the full force of Japanese victories in China," and that "diplomatic and economic measures in particular should be taken parallel to such exploitation."

Subsequently, there was organized a "China Affairs Board" which was to have virtually complete charge of coordinating Japanese economic development in China. Although a political struggle ensued over the control of this Board, it passed into the hands of the military group. On May 10, 1939, two Imperial Decrees were promulgated by the Japanese government authorizing the establishment of four branch organs of the Board in China. These agencies are located in Inner Mongolia (the Mengchiang area), north China, central China, and south China (Amoy), with a sub-office in Tsingtao. The functions of these branches or "liaison agencies" were stated to be as follows: "The North China Agency will have four bureaus, political, industrial, communications and cultural; the Central China agency four similar bureaus plus a financial bureau to handle the Chinese yuan problem; while the Inner Mongolia and Amoy offices will only have sections directly under the control of Directors..." "These liaison agencies will have a direct connection with the central organ for dealing with China's reconstruction, standing at the same time under the direction of the supreme commanders of the Army and Navy on the spot."^{1/}

The China Affairs Board, then, has control of the various companies already organized or to be organized for the economic exploitation of China and in addition a number of non-economic functions as yet vaguely defined and carried out. The Board represents an effort to coordinate and centralize control over the various Japanese enterprises already established in China and any new ones to be established in the future. These enterprises have been roughly grouped as subsidiaries under two large concerns, the North China Development Company and the Central China Promotion Company (sometimes called the Central China Development Company). Of course there are many other enterprises, some in existence before the hostilities, which have now been rehabilitated and others which are new but independent of the two big holding companies.

The North China Development Company has an announced capital of yen 350 million with authority to issue securities up to yen 1,750 million.^{2/} Eight subsidiary companies are reported to have been organized with a total capitalization of two billion yen as follows: 1) North China Railway Company, 2) North China Harbour Company, 3) North China Power Generating Company, 4) North China Iron and Steel Company, 5) North China Communication Company, 6) North China Salt Company, 7) North China Mining Company, 8) North China Chemical Company. The Central China Promotion Company is reported to have organized similar subsidiaries to control communications, electric power, mining, salt and other important undertakings.

It must be emphasized that information as to the establishment of these companies, their real capitalization, profits and extent of their business comes mainly from Japanese sources. Neutral foreign observers report that many of the larger enterprises have not yet commenced to function and that others are doing business only on a small scale. The absorption by private Japanese interests of flour mills, textile mills, cement factories, chemical plants, silk reeling machinery and other industries formerly operated by the Chinese has proceeded at a rapid rate and this has to some extent slowed up the operations of the subsidiaries of the two big government-supported holding companies. For example, privately operated Japanese flour

^{1/} Nobura Ogata, staff member of the Tokyo Nichi-Nichi, article in the Tokyo Kaizo, April, 1939.

^{2/} Domei report, Tokyo, May 8, 1938.

mills and cement plants in the Tientsin area, representing former Chinese holdings and some new construction, have prevented the functioning of the subsidiaries of the North China Development Company in these industries. The North China Railway Company is being staffed and operated by the South Manchuria Railway Company.

What is important, however, is the fact that Japanese control in China is used to sponsor and support Japanese enterprises which are not subject to the restrictions imposed on foreign enterprises of a like nature. These Japanese industries, representing a considerable expansion over those in existence in 1937, are given facilities for supplies, transportation, marketing, etc., which are either denied altogether to American and other foreign industries or are of little value because of innumerable delays and red tape. That this will mean, in the end, the elimination of almost all foreign business and industry in China is the opinion of the majority of American and other foreign business men in China. The extent to which business in China is being eliminated by the establishment of Japanese enterprises in every line of activity is illustrated by a recent dispatch from Nanking, which states that foreign business men in that city have been informed by the Japanese authorities that they desire to retain complete supervision and control of the transportation, jobbing, and wholesaling in the city. They further state that only small quantities of non-Japanese goods will be allowed into the city and that they must be brought in Japanese ships and sold through Japanese agents.

Close examination of the development of Japanese public and private enterprises in China reveals that these companies are engaging in a wide range of activity, such as shipping, electric power, manufacture of electrical equipment, motor transportation, railway and air transportation, real estate transactions and all kinds of communications including telephone, telegraph and wireless. Their enterprises also affect the processing and export of many commodities such as bristles, cement, chemicals, flour, hides and skins, coal, cotton, iron, petroleum products, textiles, tobacco, nuts and wool. The expansion of this activity means increased competition for American merchants and, what is more important, competition in which the Japanese merchants and Japanese goods are given preference over American merchants and American goods by means of the various measures discussed here.

The 213 American business firms surveyed in the study of C. F. Remer were grouped according to the nature of their business and amount of investment as follows:^{1/}

<u>Nature of Business</u>	<u>Investment</u>	<u>Per Cent of Total</u>
Transportation	U.S.\$10,799,918	12.6
Public Utilities	35,200,000	0.9
Mining	104,500	0.2
Manufacturing	20,509,095	13.3
Banking and Finance	25,320,280	4.2
Real Estate	8,478,240	4.7
Import and Export	47,748,240	46.7
Miscellaneous	2,067,395	17.4

^{1/} Foreign Investments in China, p. 285.

The above table indicates the diversity of American interests now exposed to the new forms of Japanese competition. Products formerly a part of the American export trade from China are now increasingly coming under Japanese control and virtual monopoly. Products which form the bulk of American imports into China have been less affected, perhaps, but if these Japanese enterprises succeed, will be eliminated from import into China because many of them will be manufactured in China by Japanese companies or can enter China from Japan and Manchoukuo under preferential terms. If the process continues along with other restrictions discussed here, the result will be gradual elimination of American business in China and a falling off of American trade with China.

Obviously, therefore, if Japanese plans are carried out, the principle of equal opportunity for commerce and industry in China will become a mere fiction. It is well on the road to that point at present.

H. Shipping and Inland Navigation

In addition to contravention of American rights of inland navigation, the closure of Chinese rivers, and attempts to exclude foreign shipping from various Chinese ports, the Japanese authorities have taken various measures to restrict shipping and to discriminate in favor of their own shipping interests. These measures have not been as harsh as might be expected owing to the fact that a considerable Japanese merchant tonnage has been diverted to the transportation of troops and supplies for the campaign in China.

In the spring of 1938 an announcement of a shipping combine was made which was to have a virtual monopoly on shipping between China and Japan, on Chinese coastal shipping and on inland waterway transportation. Already the Japanese have formed companies to do business on the inland waterways of China and have practically compelled Chinese shipowners to "cooperate." Coastal shipping has passed increasingly into their hands since 1937 although two British lines have continued operations. By putting more ships on the run between Japan and the ports of Tientsin, Tsingtao and Shanghai, the Japanese have been able to take a large amount of business away from the American and British ships on the same run. The discrimination involved here is indirect. As quoted in the report from Nanking given above, the Japanese authorities are beginning to insist that only foreign goods brought to China in Japanese bottoms will be allowed to move into the interior for sale. In Shanghai, for example, Japanese shipping concerns have been advertising in the newspapers for foreign cargoes for transport up the Yangtze river while foreign ships are excluded from the river because of "military necessity."

Further discrimination is to be found at a number of ports, especially in north China, where foreign shipowners find that their ships are subjected to innumerable delays in providing berthing facilities and facilities for loading and unloading. In Tsingtao, for example, it was only after repeated protests that the local Japanese officials allowed foreign ships any wharfage facilities at all. This action was taken in March, 1939. Previous to this foreign ships had to load and unload from a difficult anchorage in the bay. Although ample wharfage space is available in Tsingtao for all shipping, the berths allotted were two in number at a small pier, whereas the main piers were reserved for Japanese ships. On the writer's

visit to Tsingtao in April, 1939, the main piers had ample space for four or five ships, while several foreign ships were anchored in the bay to await opportunity to dock at one of the two berths allotted them.

I. Whangpoo Conservancy Board

This organization was set up by international agreement to which the United States is a party for the purpose of keeping open the Whangpoo River, the only water access to Shanghai. Since November, 1937, the operations of this agency have been suspended. Its ships were badly damaged during the hostilities in the Shanghai area and its dredging equipment was seized and is still being held by the Japanese authorities. Perhaps the reason why the Japanese authorities have refused to allow the Board to carry on its work is the fact that they have evolved an ambitious plan for a "Greater Shanghai" in which the main port facilities will be located in Woosung at the point at which the Whangpoo River enters the delta of the Yangtze. If this is accomplished it might effectively stifle the business and shipping now carried on in the International Settlement and French Concession.

For over a year the Japanese authorities refused to permit the agency to function or to undertake the responsibility of dredging the river channel or harbor approaches themselves. As a result the river began to silt up rapidly and foreign shipping was endangered. A few companies undertook some dredging around their wharves on their own account. It was reported on July 12, 1939, that the Japanese had agreed to resume the work of the Board but conditions were still bad in 1939 and only a little work had been done.

VIII. EFFECT OF THE CONFLICT ON AMERICAN TRADE

Before presenting an estimate of the effect of the war on American trade with China, it may be well to point out the factors affecting trade as a result of the hostilities.

Unfavorable:

1. The cutting off of trade routes and re-routing of trade, first through Canton and smaller Chinese ports such as Wenchow and Pakhoi and now through Indo-China and Burma.
2. The disruption of interior transportation facilities due to the spread of hostilities over a wide area and control of these facilities by the Japanese forces.
3. Closure of the Yangtze to foreign shipping and, later, the cutting off of access to Canton via the Pearl River.
4. Delays and discriminatory and restrictive measures on foreign shipping in ports under Japanese control.
5. Exchange controls instituted by the Chinese National Government and by the Japanese-sponsored regimes in China.
6. Import and export controls instituted by the Chinese National Government and by the Japanese-sponsored regimes in China.

7. Increase in number of taxes levied in the interior areas under Japanese control, particularly the re-introduction of transit taxes.

8. Introduction of consumption taxes by Chinese provincial governments not under Japanese control.

9. Establishment of Japanese enterprises of a monopolistic nature which have been granted preferential treatment.

10. Decreased supplies of exportable commodities.

11. Decreased purchasing power of Chinese in occupied areas.

12. Revision of tariffs by Peking and Nanking regimes, with schedules more favorable to importation of Japanese goods, and widespread entry of Japanese goods into occupied areas without payment of duty.

Favorable factors:

1. China's ability to pay cash for supplies.

2. American credit to China of \$25,000,000 and British stabilization loan.

3. Effects of United States silver purchase policy.

4. Increased demand for certain types of American commodities by Japanese forces in China.

5. Concentration of a large refugee population in Shanghai area.

6. Existence of foreign concessions and settlements in the ports of Shanghai, Tientsin, Hankow and Canton, giving American merchants relatively secure bases from which to carry on trade. (The capture of Canton and Hankow and the closure of the Yangtze River to foreign shipping nullified this advantage as far as these two cities are concerned.)

7. Existence of Hongkong and Kowloon as British controlled territory thus providing a place for storage and transshipment of commodities.

These factors must be kept in mind in attempting to interpret trade statistics. It is obviously impossible to determine the proportionate significance of each of these factors as they affect American trade except in any but the most general terms.

On the whole, American trade with China has suffered less than might be expected, although this comparatively small loss must be balanced against the fact that there was a general upturn in China's foreign trade for the first half of 1937 and the rapid pace of Chinese industrialization accompanied with a growing political unity gave promise of future prosperity. In fact, most foreign business men in China tend to exaggerate the losses to date, first, because they had a taste of prosperity which was suddenly cut off by the war, and, second, because they are afraid of far greater losses in the future. An examination of the effect of the war on trade in specific commodities and through the ports under Japanese control will give a clearer picture than the percentage loss in total trade indicates.

"With the outbreak of hostilities, America's Far Eastern trade began to shrink, especially since the war coincided with the beginning of the one-year recession in American business which lasted from the middle of 1937 to the middle of 1938. Statistical comparisons, however, should be used with caution, since America's Far Eastern trade in 1936 was subject to the restraining influence of the labor conflicts on the Pacific Coast. This factor explains sufficiently why during the first five months of the war, August to December, 1937, American exports to China (including Hongkong, which soon after the outbreak of the war around Shanghai displaced Shanghai as a transshipment port for China's interior) were actually larger than during the same period of 1936.^{1/} This is also explained by the fact that the various restrictive measures adopted by the Japanese-supported regimes in China were not generally introduced until 1938 and in many cases did not become severe in their application until the first quarter of 1939.

The total trade of the United States with China for 1938 was only about 20% less than the total for 1936 and 1937. For the first seven months of 1939 it showed a small increase over the same period for 1938. The trend of the trade, however, is shown more clearly by a monthly comparison with the last month prior to the opening of hostilities. Imports from the United States for December, 1938, were almost 60% below those for July, 1937, and exports to the United States for December, 1938, were 51% below those of July, 1937.

American imports from China of the following commodities showed a sharp decrease in 1938 over 1937: tung oil, skins and furs, tin, raw silk, wool, tungsten, egg products, cottonseed oil, peanut oil, teaseed oil, sesame seed, walnut kernels, vegetable tallow and antimony. These decreases were apparently due to a depressed market for these products in the United States and to restrictive measures adopted by the Japanese, particularly in north China. (See previous discussion of exchange control and import and export control, pp. 23, 24.) For the first seven months of 1939, American imports from China showed gains in a few items, namely, goat and kid skins, undressed furs, and tin bars. The import of other items continued to decline slightly with a larger decline in the importation of tung oil, a leading commodity in the import trade.

American exports to China of petroleum products, tobacco, automotive equipment, canned goods, chemicals, lumber, leather, wheat flour, rubber tires and a few other commodities showed a general increase in 1938 over 1937. Exports of metals, machinery and tools, paper, photographic supplies, dyes, raw cotton, electrical goods and many other commodities showed a sharp decrease over the two previous years. For the first seven months of 1939, further increases in the export of wheat flour, tobacco leaf, petroleum products and automobiles and parts were noted. Decline in the export of other commodities listed above for 1938 continued in 1939 except in raw cotton which showed an increase.

Trade with Hongkong was slightly lower in the first seven months of 1939 than for the corresponding period of 1938. This may be partly explained by an increase of trade with Indo-China and Burma, much of which represents commodities in transit to and from China.

^{1/} Kurt Bloch, "Chinese-American Economic Relations and the War," Far Eastern Survey, January 19, 1939, p. 17.

The effect of the Japanese occupation of the eastern half of China and the resulting restrictions on foreign trade as well as the effect of some of the other factors mentioned above can best be demonstrated by a breakdown of American trade by specific commodities and with the ports under Japanese occupation. A comparison of such figures with Japanese trade in the same commodities will reveal the extent to which trade has been channeled into Japanese hands. Some idea of this shift in trade can be gained by comparing the trade of the United States and Japan with ports under Japanese occupation for the years 1936, 1937 and 1938. These statistics are given in Appendices A, B, and C, together with the totals of import and export trade for such ports. They demonstrate quite clearly at Tientsin, for example, how Japan has obtained a far greater share of the trade than formerly.^{1/} This is the trend which American and other foreign business men fear will continue until their trade is practically nonexistent.

The statistics of American trade with Chinese ports not under Japanese occupation, or only occupied for a part of the year 1938, show how American trade has shifted as a result of war conditions and why the total American trade with China has declined proportionately so little.

From personal observation of American trade in Tientsin, Tsingtao, Shanghai, and Hongkong and interviews with American business men at these ports, certain conclusions can be presented. The small importer and exporter has been hit the hardest, while those who were able to adjust themselves to the new conditions fared fairly well. These include the importers and exporters who had large amounts of capital or whose credit position is strong and those with strong financial connections in the United States. In certain lines such as petroleum products, machinery, machine tools, automotive equipment, trucks and cars, and airplanes and airplane parts, Americans in China have done a substantial business both with the Japanese in the occupied areas and with the Chinese government. (Airplanes for military use have not been sold to Japan for nearly a year and a half.) This kind of business, however, is not likely to continue indefinitely as a substantial share of the trade since, so far as Japanese purchases are concerned, they are for war needs which are now somewhat decreased, and for the purpose of supplying a deficiency of Japanese industrial production which may, in the near future, be remedied.

The extent to which American commodities are being distributed in China through Japanese agents is impossible to determine. The report from Nanking, previously quoted (p. 27) indicates the trend of Japanese policy in this respect. Japanese shipping concerns operating on the Yangtze have notified foreign merchants that they are prepared to accept foreign cargoes for upriver. The fact that the war has disorganized the distributing agencies for American and other foreign goods has affected the ability of American merchants to take advantage of this proposition. Various American concerns in the lower Yangtze Valley area were able to do well on lumber sales to the Japanese although they are now beginning to feel Japanese competition severely.

^{1/} Note: Mr. F. S. Williams, in commenting on the increased trade between Japan and the occupied areas in China, particularly north China, is reported to have stated, "In view of the fact production in China has not expanded it is probable that the increased volume of commodities now arriving in Japan are in large part shipments which have been diverted from normal export channels, particularly from the United States and Great Britain." New York Times, July 30, 1939.

Few estimates of immediate trade losses have been made, and these must be used with circumspection. American merchants with long trading experience in China have given estimates ranging from U.S.\$50,000,000 to U.S.\$225,000,000. Similar estimates have been given by other experienced persons.^{1/} There is a loss in total trade with China which again is not large, being somewhat greater in imports than exports. They loom large in the minds of the American trader in China who is intimately affected, but they seem insignificant as a part of our total foreign trade.^{2/}

IX. EFFECT OF THE CONFLICT ON AMERICAN INVESTMENTS

The only adequate survey of American investments in China is that made by Prof. C. F. Remer, published in 1933. There is no agency, either private or public, to which complete reports are made concerning the financial status of American business enterprises in China, so that the only conclusions possible as to the effect of the war on American investments in China are those culled from personal interviews with individual members of American firms, American officials and others, together with incomplete estimates of damages to physical plant.

The factors which affect the status of American investments are, in part, the same as those which affect American trade. Professor Remer's study showed that of the 213 firms on which data was available, 46.7% were engaged in the import and export business, 4.3% in banking and finance, and 13.3% in manufacturing. Investments in such businesses would be affected by the operation of all the factors listed above as affecting trade. In addition, the following factors may be mentioned:

1. Damage to physical plant.
2. Increased competition from Japanese firms.
3. General disorganization of business and trade as a result of hostilities.

Favorable factors would include:

1. Temporary increased demands for certain types of products.
2. Rise in prices of commodities, real estate and transportation services. (This reacts favorably on concerns engaged in these activities, unfavorably on others.)

The greatest losses in direct business investments and in holdings in missionary, philanthropic and educational enterprises has come from damage to physical plant through explosions, fires, looting and military occupation. Over one hundred and fifty separate cases of damage are on record compiled from both official and unofficial sources during the period, July 1937 through July 1939. Other estimates have run much higher and several Americans in Shanghai with wide experience stated that they believed the figure would be closer to three or four hundred. (A complete list is now in process of compilation.)

^{1/} See New York Times, February 21, 1939.

^{2/} See discussion on attitudes of Americans in China, p. 39.

In practically every case a protest has been filed with the Japanese authorities by officials of the United States government. Claims for damages are being prepared by American officials in China and filed with the Department of State.^{1/} In a few instances direct appeals to Japanese authorities on the spot have resulted in payment of claims.^{2/} Japanese officials have stated from time to time that the Japanese government was taking all possible precautions with respect to foreign property and that the Japanese government did not consider itself or its agents responsible for damages arising from the effect of hostilities in China.

Only a few incomplete estimates of the amount of damages have been made.^{3/} American property losses in the Shanghai area have been placed at U.S.\$25,000,000. Some Shanghai authorities assert that the figure is much higher while others estimate this total to be about correct for American property losses in the whole Yangtze Valley. Losses in the Tientsin-Peking area have been comparatively small since the hostilities did not last long in that section. Damage to property outside of these two areas has been confined mostly to property of missionary organizations and a few educational institutions.

No estimate is possible of losses due to depreciation of investment. Such losses might arise from a variety of causes including damage to physical plant, and from the many factors affecting trade previously listed. American-owned rug factories in north China have suffered losses due to inability to obtain wool, both because of Japanese restrictions and because of disruption of transportation facilities. The Shanghai Power Company, representing one of the largest single American enterprises from the standpoint of investment, has had its revenues cut and is now facing the competition of the Central China Power Company, a Japanese supported concern. Shares of the Shanghai Power Company may depreciate in value because of this situation.

In contrast to losses suffered, in many cases there has been an appreciation on investments of some American concerns or companies in which substantial amounts of capital are invested. Those firms dealing in commodities in demand by the Japanese forces in China have been making very good profits, at least up until the summer of 1939, when further restrictions were introduced in north China and central China. American motor car dealers have not suffered to any appreciable degree. American oil companies have been doing a good business.

Perhaps the most startling example of increased business is in the case of the British-American Tobacco Company. The north China organization of this company has been doing a phenomenal business since the summer of 1938. It has been reported that last year this company, in competition with other companies and two Japanese concerns, sold over 2,100,000,000 cigarettes in north China. For the past six months the company has been paying something

- ^{1/} It was reported that the American government had filed its first group of claims against the Chinese and Japanese governments on March 17, 1938. See New York Times of that date.
- ^{2/} New York Times, April 12, 1938.
- ^{3/} Damages of U.S.\$2,214,007.36 were paid to the United States Government in connection with the sinking of the U.S.S. Panay on December 12, 1937. Department of State, Press Releases, April 23, 1938.

like Ch\$4,000,000 per month in taxes alone to the Peking Provisional Government. This unusual situation developed out of the attempt of the Japanese to prohibit the circulation of the old Chinese National currency and substitute notes issued by their Federal Reserve Bank for North China. Since there are large sections of these five northern provinces held by Chinese guerilla forces the Chinese farmer and merchant faced a dilemma. He dare not be caught in the Japanese-controlled areas with Chinese currency and he dare not be caught in the guerilla districts with Japanese currency, so he resorted to a barter system and used cigarets, which had a fixed value, as his currency when needed.

There are also cases of individual Americans who, seeing a demand for a particular commodity such as lumber, were able to get together sufficient capital to go into the business of supplying the need, make their profit, and stop the business when the prospect of further profits faded out. This has been true also in the field of transportation and shipping.

In contrast to the losses incurred by American business in the areas under Japanese occupation, has been the establishment of various enterprises in the territory still under the control of the Chinese National Government. In some cases this represents an investment in a Chinese-controlled and operated enterprise and it is believed that a number of these have been set up since the war began. In other cases this represents an investment in an American-owned and managed enterprise such as the Central Aircraft Corporation whose factory is located close to the Burma border and is scheduled to go into production this year manufacturing military planes for the Chinese government. In addition to these direct investments, many concerns doing a general import and export business have established new branches in the interior of China, which in some instances has meant additional capital investment.

The effect of the conflict on American investments in obligations of the Chinese government is equally hard to determine. Up to the end of 1938 the National Government continued to meet the services on the Anglo-German loan agreement of 1898, the Excess Indemnity obligations and the 1913 Reorganization loan. Internal loan services were met by the establishment of a National Loan Sinking Fund, Administrative Service to which funds from customs revenue and additional funds supplied from other sources have been allocated. It is too early to say whether the hostilities will permanently affect the ability of the Chinese Government to maintain the service on its obligations. On January 15, 1939, the Chinese Ministry of Finance announced that it would henceforth only set aside a proportionate share of customs revenues for the service of loans secured by customs revenue and it expressed the hope that the Japanese would do the same for customs funds collected under their control.

X. EFFECT OF THE CONFLICT ON AMERICAN SHIPPING

Restrictions on and interference with foreign shipping in the coastal ports and on rivers under Japanese control have already been dealt with, and some indication of the increase in Japanese shipping given. From September 1937 to the spring of 1939, the trans-Pacific service of the Dollar Steamship Lines omitted Shanghai as a port of call. This was due in

part to the reorganization of this company into the American President Lines and Shanghai calls on a regular schedule were resumed in February of this year.

An indication of the effect of the war on American shipping with all China ports is seen in the returns given below:

Year	Number of American ships entered and cleared	Tonnage
1936	3,973	3,771,479
1937	2,726	2,059,246
1938	1,306	435,342

Losses in shipping, however, were due to many factors, among them the labor difficulties on the Pacific Coast, and were partially made up by increased traffic with Hongkong and other ports in Southeastern Asia. As in other items of American interest, the losses to date as a result of the Sino-Japanese war are not large enough to be significant in the total picture of American shipping. It is the future situation, in which shipping in Chinese ports will tend to pass more and more into Japanese hands and thus prevent any expansion in American shipping, which must be taken into account. Just how much weight should be given to the loss of something that was expected to materialize in the future but probably will not, is a question.

XI. EFFECT OF THE CONFLICT ON AMERICAN PHILANTHROPIC ACTIVITY (EXCLUDING EDUCATION)

American missionary enterprises are carried on in all of the eighteen provinces of China Proper and by a large number of religious groups. These activities were seriously interfered with by the destruction resulting from the dispersion of hostilities over a large area. Damage to property through bombs and shells, fire, military occupation and general deterioration because of lack of protection has already been discussed. In addition to these losses, the organizations of various missionary societies, built up carefully over a period of years and including both foreign and Chinese personnel, were almost completely disrupted during the first months of the war. Restrictions on the right of residence and travel prevented reorganization for a considerable period. Most of these societies are still carrying on their work, but all on a reduced scale and under great difficulties.

The attitude of the Japanese authorities has been that missionaries in the interior were in danger because of hostilities and should be evacuated. They have served notice on them to evacuate various areas likely to come within the zone of hostilities. Once an area became relatively calm and a degree of order was restored, all sorts of obstacles were placed in the way of the return of those missionaries who had evacuated or of those who remained carrying on their normal work among the Chinese. This policy of the Japanese is understandable in large part because most of the missionaries do not hesitate to express their disapproval of Japanese actions in China and many have actively worked in the United States for a stronger American policy against Japan. Furthermore, it has been from missionaries that reports have come of the actions of the Japanese military toward the Chinese civilian population and such publicity is not desired by the Japanese. The task of the Japanese would be easier, in the opinion of many observers, if there were no eye-witnesses around.

While the above difficulties have been encountered in the Japanese-occupied areas, there has been an undoubted stimulus to missionary activity in the areas under control of the Chinese government. The latter has welcomed such work, first because it has been of invaluable assistance in the huge relief problem faced by the government, second because it aids the morale of the people, and finally because most of the missionaries go about their work with an initial sympathy for the efforts of the Chinese in resisting Japanese invasion.

One other effect of the war on missionary activity is worth mentioning because of its implications for the future and because it requires further investigation. Most observers agree that the Japanese were not prepared for a long war. Their armies were sent into the field with certain military objectives in mind and the servicing of the armies was carried on from the standpoint of purely military needs. The sack of Nanking and the resulting three weeks or more of disorder which followed apparently made some Japanese authorities feel that something should be done for the common soldier when he was not engaged in actual fighting. Prior to the capture of Nanking, delegations of various sorts from the towns and cities of Japan were allowed to go to China and briefly visit their soldiers from their locality to distribute clothing, cigarets, etc. This helped to maintain morale. Aside from such visits, the Japanese soldier was left to his own devices when off duty and the hundreds of brothels and gambling houses which sprung up in the cities under Japanese occupation received his patronage.

By the summer of 1938, however, foreign observers in the port cities began to notice an increasing number of Japanese Shinto and Buddhist priests among the arrivals from Japan, who apparently dispersed throughout the areas under Japanese control. Japanese officials stated that these priests were engaging in work among the Japanese soldiers similar to that conducted by various religious denominations and by the Y.M.C.A. among American soldiers in the World War. Yet reports from missionaries in the interior cities under Japanese occupation began to accumulate in the fall of last year giving evidence that these priests were also engaging in an active campaign to win Chinese converts to the purposes of Japan's "New Order in East Asia." The effect of this activity was to make it more and more difficult for American and other foreign missionaries to operate, and, because these priests were given far greater freedom and protection than was possible for non-Japanese missionaries, their work began to show some success. The numbers of these priests entering China is not known but they are conspicuously in evidence on ships going from Japan to China and can be seen in the port cities in increasing numbers. It is too soon to conclude that they will be successful in winning the Chinese peasants to their side but the implications of this activity are important enough to warrant its close scrutiny.

One further intangible effect of the war on missionary activity may be mentioned in passing. The need for relief work among the Chinese in the areas under Japanese control is so great that many missionary groups have been concentrating a large part of their effort in this direction. This effort has raised a delicate moral issue. Since most of the missionaries do not hesitate to condemn Japan's actions as unjustifiable, the question has been asked by both Chinese and foreigners, whether relief activity by

foreign missionaries does not assist Japan in consolidating her gains in China since it partially relieves the Japanese authorities of a task they might otherwise have to undertake. To date there is a division of opinion on this point, although several high Chinese officials have stated that this work should be continued since it makes the Chinese in the occupied areas feel that they have not been wholly abandoned to the Japanese and they are thus more susceptible to appeals for support of the guerilla activities in these areas.

The same general conclusions can be stated for philanthropic enterprise not under mission auspices insofar as such work is organized in a comparable manner. In addition it is at once apparent that the war has stimulated the expansion of this work and the creation of new agencies to carry on relief work of various sorts both in and out of the areas under Japanese control.

XII. EFFECT OF THE CONFLICT ON AMERICAN EDUCATIONAL ACTIVITY

Aside from losses to physical plant, discussed elsewhere (see statement on University of Shanghai in Appendix D), the war effected the activity of American-supported educational institutions in China in two ways. The first was to cause the authorities of some institutions to transfer their staff and students and as much equipment as possible to areas of greater safety in the interior of China along with many of the purely Chinese educational institutions. Such transfers were made under utmost difficulties and constitute a most remarkable chapter in the history of education in China. In most instances the American-supported institutions maintained their separate identity but often pooled their resources with other similar institutions, at least for a period. (See list of such institutions in Appendix E.)

The authorities of other institutions decided to remain where they were and to resist any attempt of the Japanese authorities or officials of Japanese-supported regimes to interfere with their student body, their staff or their curriculum or textbooks.

Some colleges, such as Ginling, divided their activity, moving their students and a large part of their staff into the interior, in this case Chengtu, while leaving some of their staff behind to care for their original property and carry on some useful service to the Chinese in the community.

Certain institutions, such as St. John's University in Shanghai, transferred their work to the comparative safety of the foreign settlements. Others remained where they were and carried on. The best example of this latter group is Yenching University located just outside of Peking, which has so far resisted efforts of the Japanese authorities to control it.

As far as the institutions in the interior of China are concerned, they have been interfered with less than might be supposed since it has been the policy of the Chinese government to encourage and even order the students to continue their education. Schedules have had to be adjusted to meet military training needs, and physical equipment and library facilities have been woefully inadequate. Much financial support, however, has been received from American sources to enable these institutions to continue to function.

XIII. ATTITUDES OF AMERICANS IN CHINA RESPECTING THE CONFLICT

Generally speaking, Americans residing in China in an unofficial capacity belong to one of two groups: those engaged in some sort of business activity and those engaged in religious, philanthropic and educational enterprises.

It is important at the outset to keep in mind the basic nature of the interests of these two groups with respect to China and the Chinese. The first group, the business men, are principally resident in China for the purpose of undertaking and furthering profitable commercial enterprise. Their activity has been aided by the existence of the special rights and privileges secured by treaties and by the existence of the foreign settlements and concessions in the principal Chinese ports which provide reasonably secure bases for their activity. Restrictions on the exercise of these rights and attempts to change the status of the foreign controlled areas have generally been resisted by this group no matter from what source such attacks have come.

Since the pursuit of profitable enterprise is the basic interest of the business group, their attitudes on public questions have naturally been conditioned by this fact. Protection of their lives and property, furtherance of American trade with China, security for American business operations in China have been their chief concern. Any threats to their basic interests by the Chinese or Japanese have usually brought forth protests. Naturally, however, there have been differences of opinion as to the seriousness of such threats and as to the most effective methods of dealing with them. In short, the business group represents a vested interest in American commerce with China and American business in China.

The group of Americans associated with the numerous missionary, philanthropic and educational enterprises in China, supported in whole or in part by American funds, live and work with the Chinese. The welfare of the Chinese people has been their chief concern. It is true that this group has also been aided in their work by the system of special rights secured by treaties. The existence of the foreign settlements and concessions provides reasonably safe bases from which this work can be directed. Many individuals in this group do not feel that these special rights and privileges are necessary to their work and have sympathized with the desires of the Chinese for full sovereignty over their territory. Their vested interest is the welfare of the Chinese people and therefore they tend to resist and protest any actions which in their minds are inimical to the welfare of the Chinese. As with the business group, there are many differences of opinion as to just what conduces to Chinese welfare and progress and as to the means by which their objectives can be attained.

The Sino-Japanese hostilities of 1937 constituted a most serious threat to the interests of both these groups of Americans in China and a greater unanimity of attitudes was to be found than at almost any previous period. With but few exceptions, and these were found principally in the business group, Japanese action was condemned as unjustifiable, and the efforts of the Chinese at resistance were supported and approved. The hostilities also produced a greater sense of common interest between these two groups than on previous occasions, thus tending to break down old

prejudices, and make possible exchanges of views and information, and a larger amount of cooperation in attempting to make their views known to the Americans at home and to the American government.

It was possible to conduct a poll of opinion for the purposes of this study by means of extensive interviews with individuals in both groups in Peking, Tientsin, Shanghai, and in Yunnan. The results of these interviews together with an examination of letters from individuals and the published statements of various groups is presented in summary form below.

Attitudes of the business group:

All want support from the United States government for the maintenance of their rights. They are divided on the question of the kind of action to be taken for this purpose.

A growing number, probably a majority, support measures "short of war," such as abrogation of the 1911 Commercial Treaty, embargoes on the sale of munitions and war supplies to Japan, increased loans and credits to the Chinese government.

A minority support more drastic measures such as long-distance blockade.

Only a very few favor going to war with Japan if other measures fail. Practically all believe that other measures would be effective in bringing about a settlement of the hostilities favorable to China.

A minority feel that protests are sufficient and fear too strong action will result in more severe restrictions and attacks on American interests.

A majority feel that business opportunities will be greater if China wins the war and continually less if Japan consolidates her gains.

A minority feel that Japanese consolidation will eventually produce peace and order and that business losses can then be made up, although very few expressed the opinion that business under such conditions will be increased appreciably.

Only a minority were found to be willing to liquidate their business and evacuate from China in order that stronger measures against Japan could be taken without further endangering American lives and property.

Americans from the interior, with practically no exceptions, are in favor of strong measures against Japan since their business has already been ruined.

Americans in Tientsin generally feel that they will be forced out eventually and therefore support stronger measures against Japan, although in many cases they have been doing a substantial business with the Japanese and through Japanese agents since the beginning of hostilities. Most of them feel that this is only a temporary situation.

Americans in Shanghai, with somewhat greater security than elsewhere, are divided in their opinions, although the large majority do not see much hope for foreign business in the future if the Japanese remain in control.

Business men in the territory under Chinese control favor strong measures against Japan and see a possible expansion of trade and investments in the development of the interior provinces.

Comparatively few individuals in this group have formed their opinions on the basis of a broad consideration of national interest and Far Eastern policy as a whole. Most regard American trade with China and American business with China as a vital American interest in the Far East and one which still has great potentialities if the Chinese were given a free hand in the development of their territory.

Non-business group:

With but very few exceptions this group favors all measures short of war to prevent Japanese consolidation on the continent.

With few exceptions the members of this group see little future for their work in areas under Japanese occupation.

The large majority of this group favor action against Japan to save China and few have formed their opinions on the broader basis of consideration for national interest and Far Eastern policy as a whole.

The members of both groups are, with very few exceptions, opposed to war with Japan and consider that the measures "short of war" will bring a cessation of hostilities favorable to China.

Since the beginning of the war in 1937 various organizations of Americans in China have attempted to present the views of the American communities in various cities to the American government and to the American people, together with information and statements concerning the course of events.

These organizations include the branches of the American Chamber of Commerce in China, particularly those in Tientsin, Hankow, Shanghai and Canton, the American Association in Shanghai, consisting of the Americans resident in that city, and more informal organizations, such as the American Information Committee in Shanghai and other groups formed to publish information and act as channels through which opinions of the American groups in China might be transmitted to the United States. (See list and sample statements in Appendices F, G, H.)

In some cases, notably in Shanghai, these organizations have sought the cooperation of other similar national organizations, and joint statements have been issued as expressions of the views of the foreign community as a whole.

In addition, the representatives of religious, philanthropic and educational societies and institutions have served as agencies for the transmission of opinions and information to their parent or affiliated organizations in the United States.

PART THREE: FAR EASTERN POLICY AND AMERICAN RIGHTS AND INTERESTS IN CHINA

The general trend of American policy toward the Sino-Japanese conflict and the principles upon which this policy has been based, have been dealt with at length in many publications since the war began. It is important, however, to determine how and to what extent, that policy has been related to the specific rights and interests discussed here.

At the beginning of the conflict in July 1937, general instructions were issued to American consular and diplomatic officials in China giving them authority to act within their discretion in assisting in the protection of American lives and property. In cases of reported infringements of American rights, they were generally to protest immediately to Japanese authorities in China and to endeavor to secure whatever redress of the infringement was possible under the circumstances. When this was not possible and conditions warranted, reports of infringements were transmitted to the American Embassy in Tokyo which had, in turn, authority to take up the matter with the officials of the Japanese Government. Reports on each case have been transmitted to Washington for use by the State Department, which from time to time, has authorized the transmission of notes to the Japanese Government concerning violations of American rights, interference with operation of American interests and general statements of policy.

Not counting notes of a general character transmitted to the Japanese Government, over two hundred separate protests have been filed with the Japanese Government concerning specific cases and have been given public notice. An unconfirmed statement was made in Shanghai that the number of separate cases protested are over six hundred. These protests, together with the notes in which general policy was set forth, reveal that every American right discussed in this study has been infringed upon by the Japanese authorities in China or by the officials of the Japanese supported regimes. The protests and notes also reveal that the American government regards American interests in China as adversely affected by the hostilities and discriminated against by the measures adopted by the Japanese authorities in China in cooperation with the regimes which they support.

An analysis of these notes, particularly the ones of October 6 and December 31, 1938, ^{1/} reveals the nature and trend of American contentions with respect to Japan's actions in China. The United States contends that Japanese authorities have no right to arrest or detain American citizens in China, or to force them to accept Japanese rules and regulations as to residence, trade or travel, or to enter, search, or seize their property, except by the permission or authority of American officials given in accordance with the laws of the United States or in accordance with such local rules and regulations which have been specifically accepted by American authorities as applying to American citizens in China. It is contended that all such actions taken arbitrarily by the Japanese officials or their agents violate the extraterritorial rights of American citizens in China. Although Japan is not specifically obligated to observe this right

^{1/} Department of State, Press Releases, October 28, 1938, and December 31, 1938.

in China - a right held by her own citizens as well - the United States contends that "military necessity" does not justify what it regards as unlawful acts against its citizens. 1/

In spite of warnings and requests from the Japanese that Americans should evacuate the zones of hostilities and, in fact, the whole of Japanese-occupied China, and in spite of warnings to American armed forces, particularly naval units, that they should stay clear of such areas, the United States government has contended that it has the right to urge and aid evacuation of its citizens solely on its own responsibility and that it has the right to protect the lives and property of its citizens in any area solely on the discretion of its own officials and not at the dictation of the Japanese.

The United States has consistently attempted to maintain its rights in special areas in China, to insist that the status or administration of these areas cannot be changed lawfully without its consent and it has maintained its interest in the special agencies, such as the Chinese Maritime Customs and the Whangpoo Conservancy Board established by treaties to which it was a party.

The Nine Power Treaty which imposes certain obligations on its signatories with respect to their relations with China and their actions in China, is still in effect as far as the United States is concerned. Furthermore, the United States considers that Japan has violated her obligations under this treaty and consequently has infringed upon the rights of the United States.

A press statement released on October 9, 1937 by the Department of State contains the following: 2/

"In the light of unfolding developments in the Far East, the Government of the United States has been forced to the conclusion that the action of Japan in China is inconsistent with the principles which should govern the relationships between nations and is contrary to the provisions of the Nine Power Treaty of February 6, 1922, regarding principles and policies to be followed in matters concerning China, and to those of the Kellogg-Briand Pact of Paris of August 27, 1928. Thus the conclusions of this Government with respect to the foregoing are in general accord with the Assembly of the League of Nations."

The note of October 6, 1938, stated that Japan's actions in China were, "in contravention of the principles and conditions of equality of opportunity or the 'Open Door' in China." 3/ In the note of December 31, 1938, after vigorously affirming that the actions of the Japanese authorities in China and of the officials of the Japanese supported regimes not only have violated American rights but have been discriminatory against American interests and are thus contrary to the provisions of the Nine Power Treaty, this statement is made, 4/

- 1/ See also previous discussion on American rights as affected by the conflict.
- 2/ Department of States, Press Releases, October 9, 1937.
- 3/ ibid. October 28, 1938.
- 4/ ibid. December 31, 1938.

"These treaties were concluded in good faith for the purpose of safeguarding and promoting the interests not only of one but of all their signatories. The people and the Government of the United States cannot assent to the abrogation of any of this country's rights or obligations by the arbitrary action of agents or authorities of any other country."

In the two notes referred to above, the United States government also presented specific examples of what it considered violations of the specific provisions of the Nine-Power Treaty as well as other American rights.

The effect of the Sino-Japanese conflict on American policy is clear. The result to date has been a growing insistence that Japan must respect the rights of American citizens in China, that Japanese actions constitute violations of her treaty obligations with the United States, that the establishment of a "New Order in East Asia" by the unilateral action of Japan's agents will not be acceded to by the United States, and that the United States stands ready to negotiate on any questions relating to China on a basis of equality but will not be dictated to. The results to date tend toward a showdown. The increasing irritation of the American public and of the American government over Japan's actions in China as expressed most recently by Ambassador Grew in his Tokyo speech of October 19, 1939, and by such previous actions as the various loans and credits given China and the abrogation by the United States of its commercial treaty with Japan - all seems to mean that either Japan must concede some or all of these points or the United States will be forced to take more drastic measures as an alternative to repudiation of its oft-repeated policy.

The effect of the Sino-Japanese conflict has been to channel American Far Eastern policy in a definite direction on the basis of certain broad principles of orderly international relations so often enunciated by Secretary of State Hull and on the basis of the specific principles expressed in the Nine Power Treaty. As the war has progressed, American policy has tended to crystallize and to call forth stronger words, more specific statements of evidence to support American contentions, and finally action to demonstrate that the United States government means what it says. Through twenty-seven months of war in China Japanese-American relations have moved steadily towards either a showdown or a settlement.

APPENDIX A

EXPORTS TO THE UNITED STATES AND JAPAN FROM PRINCIPAL PORTS OF CHINA UNDER JAPANESE OCCUPATION.

(in Chinese standard dollars)

Exports from		To United States and possessions	To Japan Kwantung, Korea	Total export trade
Chingwantao	1936	46,386	5,235,894	7,065,805
	1937	-----	8,462,061	11,403,848
	1938	-----	24,220,674	28,725,380
Tientsin	1936	44,285,017	32,948,036	117,826,623
	1937	57,477,527	28,416,203	128,872,306
	1938	31,257,541	98,140,036	176,060,947
Chefoo	1936	1,145,756	1,308,059	9,737,544
	1937	2,140,574	894,854	12,315,098
	1938	1,311,412	2,443,293	15,166,686
Weihaiwei	1936	5,980	215,860	2,348,724
	1937	-----	268,622	2,463,930
	1938	-----	132,101	1,354,047
Lungkow	1936	1,200	989,131	2,599,326
	1937	-----	662,674	2,647,055
	1938	3,190	139,235	1,774,195
Tsingtao	1936	8,871,644	26,651,481	51,533,149
	1937	7,620,744	21,838,771	58,038,694
	1938	2,045,013	18,248,465	31,445,468
Shanghai	1936	125,761,175	55,381,714	362,273,720
	1937	151,885,721	41,369,276	404,671,937
	1938	41,669,998	18,989,922	223,038,838

Source: Chinese Maritime Customs Reports.

APPENDIX B

IMPORTS INTO PRINCIPAL PORTS OF CHINA UNDER JAPANESE OCCUPATION FROM
THE UNITED STATES AND JAPAN

(in Customs gold units)

Imports into		From United States and possessions	From Japan Kwantung, Korea	Total import trade
Chingwantao	1936	15,699	1,180,112	1,525,145
	1937	119,099	951,770	1,633,609
	1938	390,646	8,291,031	10,347,901
Tientsin	1936	3,926,565	12,578,342	32,117,443
	1937	4,328,781	13,542,156	36,973,230
	1938	9,158,510	60,756,048	101,460,257
Chefoo	1936	207,518	1,633,260	3,015,852
	1937	223,791	1,074,965	2,547,653
	1938	308,490	2,782,169	5,838,163
Weihaiwei	1936	14,143	463,926	535,609
	1937	41,523	207,295	326,060
	1938	5,096	432,056	729,913
Lungkow	1936	71,897	616,114	891,723
	1937	41,880	523,034	740,255
	1938	1,411	110,206	114,019
Tsingtao	1936	1,913,669	12,418,339	24,190,380
	1937	3,778,042	9,701,281	21,907,101
	1938	1,275,851	16,707,238	20,086,688
Shanghai	1936	59,785,570	35,041,617	245,655,570
	1937	51,187,489	35,279,863	224,508,948
	1938	26,523,222	19,697,838	118,941,142

Source: Chinese Maritime Customs Reports

APPENDIX C

UNITED STATES TRADE WITH PORTS OF CHINA NOT UNDER JAPANESE OCCUPATION,
OR ONLY UNDER OCCUPATION FOR ONLY A PART OF 1938. 1/

(in Standard dollars)

United States imports
from --

	1936	1937	1938
Foochow	46,787	77,441	25,442
Amoy	462	815	-----
Swatow	1,998,722	11,973,290	7,011,811
Canton	2,904,290	4,662,308	3,330,610
Kowloon	129,555	459,034	149,998
Kongmoon	130,116	162,948	48,886
Mengtz	1,050,645	376,028	360,159

United States
exports to --

(in Customs gold units)

Chungking	259,251	260,319	55,331
Changsha	907,562	880,660	232,220
Ningpo	28,315	48,529	117,143
Wenchow	15,000	46,061	135,102
Santuo	27	999	59,649
Foochow	194,568	381,053	850,174
Amoy	361,093	446,692	515,973
Swatow	695,878	1,397,939	1,205,871
Kowloon	6,051,850	8,355,153	17,619,375
Canton	1,753,870	2,696,145	4,017,514
Lappa	104,370	412,778	358,766
Kongmoon	164,133	191,708	316,999
Luichow	100,012	144,541	838,654
Kiungchow	174,809	325,097	477,190
Pakhoi	29,272	110,329	83,643
Lungchow	18	795	8,539
Mengtz	613,069	791,183	752,061

1/ Trade through these ports has been frequently interrupted by attacks of Japanese forces and by the blockade of the China coast.

Source: Chinese Maritime Customs Reports.

APPENDIX D

STATEMENT RESPECTING THE UNIVERSITY OF SHANGHAI, CONTAINED IN THE UNITED STATES NOTE TO JAPAN PRESENTED BY AMBASSADOR GREW IN TOKYO ON MAY 31, 1938:

"An illustrative case is that of the property of the University of Shanghai, a large and valuable plant located at Shanghai in the Yangtzepoo district. This university has been engaged for many years in educational work and is jointly owned by the Northern and Southern Baptist Missionary Societies. The premises of the University have been under continuous occupation by the Japanese military and naval units since shortly after the outbreak of hostilities at Shanghai in August 1937. It is understood that the premises have been used by the Japanese for quartering troops and for military offices, and a portion of the campus for stationing airplanes and supplementing the runway for airplanes on the adjacent golf course which has been converted by the Japanese into a military flying field. During the period of Japanese occupancy, several buildings have been damaged and the majority looted. Japanese occupation of the property has continued for a period of nine months, notwithstanding the fact that hostilities in the locality long ago ceased. Repeated written and oral representations made by the American Embassy at Tokyo, to the Japanese Government and by the American Consul General at Shanghai to the Japanese authorities there have not so far resulted in bringing about restoration of the premises to the rightful owners. Recently, representatives of the Baptist missionary societies have stressed, on behalf of the six million Baptists in the United States, the urgent need for the return to their possession of this important missionary educational property."

State Department, Press Releases, June 4, 1938, p. 636.

APPENDIX E

PRINCIPAL AMERICAN-SUPPORTED COLLEGES AND UNIVERSITIES IN CHINA WHICH HAVE BEEN FORCED TO MOVE TO THE INTERIOR OR TO FOREIGN SETTLEMENTS TO CARRY ON THEIR WORK.

Institution	Old location	New location	Damage (where reported)
University of Nanking	Nanking	Chengtun	
Soochow University	Soochow	Intern'l Settlement Shanghai.	Occupied by Japanese Est. \$300,000 damage
Soochow University College of Law	Shanghai	Intern'l Settlement Shanghai	All buildings destroyed Est. \$600,000 damage, probably more.
University of Shanghai	Shanghai	Intern'l Settlement Shanghai	Undetermined damage by Japanese occupation since August 1937.
St. Johns's University	Shanghai	Intern'l Settlement Shanghai	
Lingnan University	Canton	Hongkong	Damage undetermined.
Fukien Christian University Foochow		Shaowu	
Hangchow Christian College	Hangchow	Intern'l Settlement Shanghai	Destroyed by fire No estimate of damage.
Ginling College	Nanking	Chengtun	Not occupied by Japanese

Note: Those which have not moved include the following:

Yenching University, Peiping.
Peiping Union Medical College, Peiping.
College of Chinese Studies, Peiping.

In addition there are a number of smaller schools which have carried on in their same location although in territory under Japanese occupation.

APPENDIX F

ORGANIZATIONS OF AMERICANS IN CHINA

The organizations of Americans in China which have been most active as agencies for the expression of opinions have been the American Chambers of Commerce in Tientsin, Hankow, Shanghai and Canton, the American Association in Shanghai, and an informal group in Shanghai known as the American Information Committee.

The Shanghai American Chamber of Commerce has acted as a clearing house for the similar organizations in Tientsin, Hankow and Canton. These other agencies, however, have often sent messages direct to the United States, principally to the United States government.

The American Association in Shanghai developed after the opening of the hostilities when it was felt that there ought to be an organization to which the large majority of Americans could belong and which should have a wider scope of action than the Chamber of Commerce. There had previously existed a small organization known as the American Community which had limited itself to discussion of municipal problems affecting American residents in Shanghai and to acting as an informal caucus for the nomination of the two American members of the Shanghai Municipal Council. In the early part of 1938 the Junior Chamber of Commerce assisted in a membership drive for the American Association (successor to the American Community) and increased the membership of the organization by over 1,800.

In order that there should be no duplication of effort among the various American groups in Shanghai, the American Association appointed a General Relations Committee which was to act as "a representative body to coordinate and give effect to" the policies and programs of American individuals and organizations in the city.

The following is the statement of the purposes and objectives of this General Relations Committee issued on September 16, 1938:

"The object of this Committee is to promote the safeguarding of American life, property and interests in Shanghai, and elsewhere in China as may be practical. The Committee on General Relations in no way takes the place of any existing agency, least of all those of the United States Government, but is intended to supplement any or all of them or to take independent action on occasion as advisable.

"Objectives:

"The immediate objectives which are of concern to the General Relations Committee are

1. Prevention of further encroachment on the International Settlement of Shanghai and interference with its administration.
2. Restoration of the Hongkew, Yangtzepoo and Western areas to the full authority and control of the International Settlement
3. Restoration of transportation facilities, including railways, shipping, commercial airways and motor highways, with access to markets and mission centers in the Yangtze valley and other areas.

4. Restoration of American properties to their rightful owners with full access to and use thereof.
5. Prevention and abolition of all monopolies created by Japanese and their agents in contravention of the Nine Power Treaty and the Open Door Policy of equal opportunity.
6. Discontinuance of Japanese sponsored censorship or other interference with mails, telegrams, cables, radios, or other means of communication.
7. Immediate return of equipment and resumption of dredging operations necessary for maintenance of Shanghai as a port for the use of American and international shipping.
8. Recognition and maintenance of extraterritorial status of Americans and their interests in accordance with treaties.
9. Adoption and support of all practical measures (a) to limit the scope of hostilities in their disastrous effects on civilian communities and to prevent their possible ultimate spread to other quarters of the world, and (b) to bring about the early establishment of a just peace based on the recognition of China's sovereignty and territorial integrity and the rights of American nationals to pursue their legitimate interests in China on the basis of equal opportunity with the nationals of any other foreign power.

"Method of Procedure

1. The United States Government authorities in Shanghai shall be kept informed and their advice and cooperation shall be sought. These relations shall be entirely unofficial, and the Committee reserves the right to state its own case.
2. The General Relations Committee is the servant of the American community. It is desirable that it receive active guidance and support and have the cooperation of all American citizens, particularly as a medium for expressing their needs.
3. Close cooperation shall be sought with the Shanghai Municipal Council, which shall be kept informed of the program, attitudes and wishes of the American community. Cooperation shall be sought with other nationals where desirable.
4. Provision shall be made for a representative in Washington who shall keep the United States Government and other interested organizations and agencies informed relative to the needs and wishes of Americans in Shanghai and China generally. An advisory committee shall be set up in Washington with branch committees elsewhere as desirable.
5. The general line of procedure shall be through presentation of information, through the United States Government authorities in Shanghai, through the representative of the American Community in Washington, and, where desirable, directly through correspondence or the press."

The Committee has worked closely with the American Chamber of Commerce in Shanghai and with the American Information Committee. Up to the beginning of 1938 the Committee gave out some six press releases, joined with the Chamber of Commerce in two cables to Washington urging strong action against continued infringements of American rights and commending

the President on his attempts to assist in a peaceful solution of the European crisis but calling attention to the fast developing crisis in the Far East.

The Committee assisted in distributing copies of a booklet entitled, "Japan's War On Foreign Business in China" which consisted of reprints of articles which appeared in the China Weekly Review in Shanghai. It was responsible for the printing and distribution of some 1,400 copies of a pamphlet reprint of an article by Nathaniel Peffer entitled, "The Need for Change in American Attitude and Action." It also assisted in the distribution and publicizing of an article prepared by the American Chamber of Commerce in Shanghai and which appeared in the New York Times entitled "Japan's Attack on America in the Far East." It has assisted in the distribution of many of the pamphlets produced by the American Information Committee.

The American Information Committee was formed in October, 1938, by a small group of American residents in Shanghai who met to "consider how Americans at home could best be informed of precisely what is happening in the Far East." It was decided that the best means of achieving this was the publication of pamphlets.

The following statements of purpose appear in the Committee's pamphlets:

"The American Information Committee is non-partisan, but it is not blind to facts. It is these facts which it wishes to pass on to all Americans interested in justice and international fair play.

"The Committee and its activities function by virtue of voluntary contributions and work from and by its members. It receives no subsidies or funds from any other source.

"The Committee welcomes inquiries from Americans in all parts of the world and will endeavor to supply them with any material in which they may be interested."

The Committee has produced six pamphlets with titles as follows:

1. Japan's Real Aims in China.
2. Narcotic Traffic and the Japanese Army.
3. "New Order in East Asia."
4. China after Twenty-one Months of War.
5. China Exploitation Company, Unlimited.
6. The New Outlook in the Far East in the Light of the European War.

APPENDIX G

PARALLEL ACTION BY ELEVEN NATIONAL GROUPS OF FOREIGNERS IN SHANGHAI.

Largely as a result of the work of the American Association, there was released on November 24, 1938 a statement approved by eleven national bodies in Shanghai regarding action of the Japanese with reference to restricting foreign rights in China.

The statement is as follows:

"The immediate objectives in connection with the present situation of concern to the above mentioned Associations and Chambers of Commerce are:

- (1) Retention of all rights under the Land Regulations and prevention of encroachment on and interference with the administration of the International Settlement of Shanghai and the foreign concessions in China and the withdrawal of any encroachments already made.
- (2) Restoration of the Hongkew, Yantzepoo and Western areas to the full authority and control of the International Settlement as formerly exercised.
- (3) Restoration of transportation facilities including railways, shipping, commercial airways and motor highways, with access to markets and mission centers in the Yangtze valley and other areas.
- (4) Prevention and abolition of all monopolies created in contravention of the Nine Power Treaty and the Open Door policy of equal opportunity.
- (5) Restoration of properties of their respective nationals to their rightful owners with full access to and use thereof.
- (6) Discontinuance of censorship sponsored by any third party or other interference with mails, telegrams, cables, radios, or other means of communication.
- (7) Immediate return of equipment and resumption of dredging operations necessary for the maintenance of Shanghai as a port for the use of international shipping.
- (8) Insistence on the right of their respective nationals to pursue their legitimate interests in China on the basis of equal opportunity with the nationals of any other foreign power.
- (9) Recognition and maintenance of the extraterritorial status of their respective nationals and their interests in accordance with treaties."

The organizations issuing this statement, which was transmitted in each case to their respective home governments, were: The American Association of Shanghai; the American Chamber of Commerce, Shanghai; the Belgian Chamber of Commerce; The British Chamber of Commerce and China Association, Shanghai; the British Residents' Association of China; the Canadian Club of Shanghai; the Danish Association in Shanghai; the French Chamber of Commerce; the Netherlands Chamber of Commerce; the Norwegian Chamber of Commerce; the Swedish Association in China.

The similarity between these statements and the statement of objectives issued earlier by the American Association is noteworthy.

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